

**"COURT MANAGEMENT AND COURT REFORM:  
A Case Study of the Tempe, Arizona Municipal Court"**

**Phase III: Court Executive Development Program  
Institute For Court Management  
National Center For State Courts**

**By: John W. Greco, M.S.  
Court Administrator  
Tempe Municipal Court  
January, 1996**

**Advisor: Dr. Tom Diggs  
Institute For Court Management  
National Center For State Courts**

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## ABSTRACT

The topic of this paper is court management and court reform with a case study of the Tempe, Arizona Municipal Court.

Following a discussion of court management, the author's experiences as a Court Administrator are used to offer insights as to how court management can be used to reform and improve court organizations.

This paper concludes with a recommendation that further research be focused on the development of a court management model with Presiding Judges as Chief Executive Officers in partnership with Court Administrators as Chief Operating Officers. Such a model could improve the operation of court organizations and thereby contribute to justice in our time and beyond.



## **ACKNOWLEDGEMENTS**

So many people contributed so much to the management and reform of the Tempe Municipal Court that it is difficult to acknowledge even the key actors. Tempe Mayors and Councils have been supportive and understanding; they continue this positive role today. The Chief Justice of the Arizona Supreme Court, the staff of the Administrative Office of the Courts, and the larger court community contributed substantially.

The Tempe City Manager and staff have been tremendously cooperative. The community has been supportive and understanding.

Judge C. Kimball Rose, Presiding Judge of Maricopa County at the time of the Court's seizure, was dubbed the Presiding Judge from central casting, and played an oscar quality performance.

The Tempe Municipal Court staff has been phenomenally productive and good humored.

Critical to all of our success is Louraine C. Arkfeld, Presiding Judge, Tempe Municipal Court. She is an outstanding Presiding Judge and the C.E.O. in this drama.

Especially helpful was Barbara Lasater, Deputy Court Administrator, energetic beyond compare.

Edith Ross, Court Secretary, graciously and patiently processed this paper.

A special note of thanks to my family for instilling in me a desire to do what is right, and to Bill Graham who helped beyond words.

Finally, kudos to the staff at the National Center for State Courts, Institute for Court Management, who provided me with the opportunity and inspiration to produce this paper; and to Tom Diggs for his critical role as advisor.

I am the author and therefore ultimately responsible for this paper.

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John W. Greco  
Tempe, Arizona  
February, 1996

## **INTRODUCTION**

### **PURPOSE**

The purpose of this paper is to share the author's management experiences and insights during a period of reform in the Tempe Municipal Court, Maricopa County, Tempe, Arizona. These experiences and insights will be shared in the context of court management and court reform in Arizona as well as throughout this country.

The author has served as Court Administrator from January 24, 1994 to present; first in an interim capacity and from May 23, 1994 to the present as a regular appointment. During that time, the Presiding Judge resigned, the Court was seized by the Arizona Supreme Court, The Arizona Administrative Office of the Courts conducted a comprehensive audit of the Court, the Arizona Attorney General's Office investigated the Court for criminal activity, the former Presiding Judge was indicted and disbarred (as were others associated with the Court), the entire bench was replaced, the Court staff was completely reorganized, and every contract with the Court was redone. In essence, from January 1994 to present, the Court changed dramatically.

Given the rapid and pervasive changes throughout this country and throughout the court as an institution, it is the author's hope that people interested in the management and reform of the court will not only find this paper interesting but also relevant. It is the author's assumption that readers of this paper possess a basic knowledge of the court as an institution and the current state of court management.

## **OVERVIEW OF CHAPTERS**

Chapter One is titled "Court Management" and is a general review of the opportunities facing court administrators in our day. The author has used this chapter as a "bully pulpit" to identify issues and opportunities that must be addressed if the court is to survive and flourish. A general management approach will be identified and discussed, and a specific partnership paradigm involving Presiding Judges and Court Administrators will be proposed.

Chapter Two is titled "The Setting" and contains an overview of the Arizona Judicial Branch, the City of Tempe, and the Tempe Municipal Court. The purpose of this chapter is to describe the context of court management and court reform that will later be discussed in detail.

Chapter Three is titled "Opportunity" and will begin with the author's assignment as Interim Court Administrator of the Tempe Municipal Court in January, 1994. The first two weeks will be detailed, followed by the seizure of the Court, the Presiding Judges involved, the roles of the Administrative Office of the Courts (A.O.C.) and the Attorney General's Office, the Court's reorganization, and what developed through December 1994. This included a period of high drama, national media attention, and overall chaos that gave birth to subsequent management and reform efforts to create a professional, well organized Municipal Court in Tempe, Arizona.

Chapter Four is titled "Stabilization" and chronicles the life of the Tempe

Municipal Court from January 1995 to present. This period begins with a zero-based budgeting effort, an unprecedented State of the Court message to Mayor, Council, and the community; a fiscal year 1994/1995 budget supplement tied to a FY 95/96 budget package; and efforts to cross-train staff, institute quality controls, develop written policies and procedures, and enforcement of the orders of the Court which resulted in significantly increased revenues. The Tempe Municipal Court is whole and healthy at the end of this period and well on its way to becoming a well managed organization.

Chapter Five is titled "Recommendation" and contains general observations and a recommendation that may be of some interest and use to the court community. The legal model used by Judges and the management model used by Court Administrators is highlighted. The partnership of Presiding Judges and Court Administrators is revisited, and the conclusion is an observation of the court as an institution, today and tomorrow.

### **TIMELINESS**

Never before has our species experienced today's pace and pervasiveness of change. By definition, our day and our experiences are unique to us. By historical analysis, however, the quantity and quality of change today is unprecedented. The last time such a sea of change engulfed western civilization was fourteenth century Europe. In The Distant Mirror, Barbara Tuchman chronicles what happened: every theory and every social institution literally imploded. Today, our experiences are even more stressful and more extreme, because there is that much more change.

When individuals and societies undergo such change, they inevitably go back to the basics to find their roots and deal with concepts such as justice. Because the court as an institution is responsible for providing a forum for justice, courts are in the maelstrom of today's change. What courts should do and how they should do it are basic questions being examined by people in the court community as well as by society.

It is therefore timely to examine the changes that occurred in the Tempe Municipal Court in the context of court management and court reform. If our society is to survive, and if tomorrow is to be a better day, then all of us must be concerned with justice and how it relates to the purposes, processes, and products of courts. It is the author's hope that this paper will contribute not only to the contemporary debate on court management and court reform, but also contribute to the larger question of justice in our society, both today and tomorrow, and how justice is related to the court as an institution.

## **METHODOLOGY**

This paper is a case study of the Tempe, Arizona Municipal Court in the context of court management and court reform. The author was a participant observer, serving as Court Administrator during the period being presented and analyzed, and still serves in that position.

There are inherent biases and limitations that must be recognized when the author is a participant observer. The reader should recognize that the information

selected for presentation and analysis necessarily reflects the author's involvement and his relationships with the other actors. This paper is not exhaustive, nor would it serve any reasonable purpose to record everything which occurred. However, enough documentation and key actors are available so that additional research could verify the information presented. It is in the author's best interest to ensure the factual basis of the information presented, given a government career of nearly thirty years. Professional reputation is taken seriously by the author, and this paper will hopefully not detract from that reputation nor the expectation of career continuation.

The reader will note that this paper is accompanied by a companion volume titled "Tempe Municipal Court: Court Operational Review Evaluation" by the Arizona Supreme Court, Administrative Office of the Courts (A.O.C.) dated February, 1994. This companion volume provides a wealth of supporting documentation, including relevant information and analysis, by professional third parties. The reader who is interested in detail beyond that presented in this paper may refer to the companion volume which will hereafter be referred to as "Volume II." (See Volume II, pp. 1-34 for summary and background information, as well as basic findings arrived at by the A.O.C.)

## CHRONOLOGY OF MAJOR EVENTS

<u>EVENT</u>	<u>DATE</u>
City Organizational Review Report	11/04/93
Author's First Day as Interim Court Administrator	01/24/94
Presiding Judge Resigns	02/03/94
Tempe Municipal Court is seized	02/04/94
Interim Presiding Judge	02/22/94
Court Reorganization Plan Presented to Mayor/Council	03/31/94
Administrative Office of the Courts Operational Review	04/12/94
Regular Appointment of Presiding Judge and Court Administrator	05/23/94
State of the Court Message	01/27/95
Staff Summary-Additional Appropriations	05/16/95
(Williamsburg, VA: ICM Phase II, C.E.D.P.)	07/07/95



## **ATTACHMENTS**

1. Appointment of Interim Court Administrator
2. Job Descriptions
3. Mission and Vision Statement
4. State of the Court Message
5. Staff Summary - Additional Appropriations
6. Court Budget - Current

## **APPENDICES**

- A. "A Guide To The Arizona Courts"
- B. Dorfman Report on Arizona Limited Jurisdiction Courts

## **DEFINITIONS**

- |                        |   |
|------------------------|---|
| • Court                | The Tempe, Arizona Municipal Court                |
| • court(s)             | The institution; includes all court organizations |
| • court administration | The management of court organization(s)           |
| • court management     | The same as court administration                  |
| • staff                | Non-judicial staff                                |
| • bench                | Judicial officers                                 |

## **VOLUME II**

### **"ARIZONA SUPREME COURT, ADMINISTRATIVE OFFICE OF THE COURTS: TEMPE MUNICIPAL COURT - COURT OPERATIONAL REVIEW EVALUATION"**

- A.O.C. Operational Review Background
- Background Administrative Orders
- Reorganized Court Plan - Briefing to Mayor/Council
- Arthur Andersen Audit
- City of Tempe Organizational Review Report
- Additional relevant information

## **CHAPTER ONE**

# **COURT MANAGEMENT**

## Chapter I

### COURT MANAGEMENT

The purpose of this chapter is to discuss management in general, relate that discussion to the management of the court, and conclude with a partnership model involving the Presiding Judge as Chief Executive Officer (C.E.O.) and the Court Administrator as Chief Operating Officer (C.O.O.). The information presented is a distillation of the author's experience as a manager, including Court Administrator, as well as insights gained from a long career as an adjunct university faculty member specializing in management.

Management is a matter of getting things done with and through other people. The focus of management is the performance of people in organizations; especially in our country, we rely on organizations to produce our products and services. The basic purpose of management may be defined as follows: to maximize the quantity and quality of the product or service the organization produces, over time, in light of all the stakeholders. This definition has two elements that deserve explanation. First, the concept of "over time" is in Peters and Waterman's In Search of Excellence where they note that good organizations are characterized by management which has a long range view. They point to the short term approach as a "take the money and run" effort which inevitably impairs any organization.

Second, the concept of stakeholders is in O'Toole's work, Vanguard Management. A stakeholder is anyone internal or external to an organization who is impacted either directly or indirectly by that organization. These concepts of a long range view and a generalized management responsibility that flows from the notion of stakeholders are key to the author's understanding of management. Therefore, court management should involve those actions and activities that focus on the performance of people in court organizations so that they can maximize the products and services of the court, over time, in light of everyone in our society.

The authors of the federalist papers, Roscoe Pound in his turn of the century address to the American Bar Association, the late U.S. Chief Justice Warren Burger, and contemporary commentators on court management such as Ron Stupak and David Saari, point to the need for the court to have a clear mission and vision. Peter Drucker, the founder of modern management, and a legion of associates from Alvin Toffler to Stephen Covey, point to the need for every organization to understand clearly its mission and vision.

Probably the most vital need today for court managers is to develop a mission and vision for the court that will meet society's need for justice today as well as tomorrow. Mission and vision are essential so that the court can articulate its purposes, identify its products and services, and make clear how people in court organizations will interact with each other as well as with the courts' external stakeholders.

Court management must take into account human nature, the basic purposes of our government, and contemporary events when creating a mission and vision. On human nature, Page Smith of Harvard University and a plethora of like observers point to two major value influences on American society: secular and religious. The secular value influence is further described as classical/philosophical, and the religious value influence is further described as judaeo/christian. These two major value influences on our society tell us the same two things about human nature. First, man is a group animal, i.e., we cannot be fully ourselves except in terms of and with other people. Second, man is inherently limited, i.e., we will by nature fall short of what we attempt to do and/or cause things to happen that we did not intend.

Recognizing these two elements of human nature, it is natural for people to come together to form organizations; however, those organizations need to be managed to help overcome the inherent limitations of people. Clear and compelling missions and visions are essential for managers to optimize organizational effectiveness and efficiency.

The three basic purposes of government rooted in Hobbes and Locke take the above understanding of human nature into account. These purposes are the definition and enforcement of personal rights, the definition and enforcement of property rights, and the regulations of the commons, i.e., those things that are of joint use such as streets, waterways, and the atmosphere. As the third branch of government, the court plays a vital role in the fulfillment of these purposes. A look at court management in contemporary American society must include the information provided above coupled with a

recognition that we are experiencing a change process that is far wider, deeper, and faster than has ever occurred before. Ron Stupak and David Saari, among others, have spent considerable time and energy describing the pervasive changes which have engulfed our society and its institutions. From an emphasis on "E Pluribus" and a loss of "Unam" to the contemporary federalization of the State Court system, our society lacks a clear consensus, i.e. mission and vision, of what it means to be an American. Our government institutions, including the court, reflect that same lack of consensus. In this time of uncertainty, the importance of such projects as the N.C.S.C.'s Trial Court's Performance Standards Project, (headed by Ingo Keilitz), and the Institute for Court Management's Court Executive Development Program (headed by Tom Diggs), are essential for the success of court organizations.

Is it any wonder, then, that the human condition which is naturally fraught with opportunity, to borrow from Peter Drucker, is faced with even more "opportunity" given our period of history? A review of the management of our courts is not only timely but necessary. Given human nature, given the historic purposes of government, and given contemporary change, that institution which is uniquely charged with conflict resolution, and individual and social justice, should have a clear and compelling mission and vision. Each individual court's mission and vision provides court managers with a foundation upon which to build organizational structures, develop policies and procedures, and facilitate all of the traditional functions of management, e.g., planning, organizing, staffing and budgeting.

Once the mission and vision of the court as an institution and/or individual court organizations are agreed upon, it becomes the responsibility of court managers to build organizational structures and work processes that will most effectively and efficiently produce the desired outcomes. The major challenge at this point is the split between the judges and the staff. This is not only a functional split, but also a split of a much more profound nature. Judges are, for the most part, law trained. Court Administrators are typically trained in management. This is very much a "yin and yang" situation that can give rise to organizational schizophrenia within a court organization, unless a partnership model is developed and implemented in light of mission and vision.

The partnership model presented herein is that of the Presiding Judge as Chief Executive Officer (C.E.O.) and the Court Administrator as Chief Operating Officer (C.O.O.). This model may have a number of variations depending on the role of the Presiding or Chief Judge vis á vis the other members of the bench. However, regardless of variations, there are certain basics that must be in place for a court organization to function effectively and efficiently in light of its mission and vision.

Judges are responsible for making decisions in the courtroom that, among other things, contribute to societal justice. Court administrators are responsible for managing the court staff in such a manner as to facilitate the "production" of justice in the courtroom. The Presiding Judge is responsible for the court organization, including the staff, but typically does not come from an academic or professional background that includes professional management. The training and education provided in law school is



very different than management. To be an effective manager or leader, a Presiding Judge will often have to grow beyond the limitations of the legal model. It follows that the role of the Court Administrator needs to be that of professional manager who directs the operations of the court that are subject to the management process, sans judicial decision making.

A professional Court Administrator is a "must have" for the judge who wants to preside over an effective and efficient court organization. What is necessary for the relationship between the two positions to work is a clear understanding of roles and responsibilities. The Court Administrator should be an at will employee hired by the Presiding Judge, or by the entire bench, and report to the Presiding Judge. The Court Administrator should manage the court organization and supervise the court staff from hiring to termination.

The organizational structure, sans bench, should be the responsibility of the Court Administrator, as should the staffing levels and budget. A professional Court Administrator should obtain direction and input from the Presiding Judge on major projects such as the budget; however, the Court Administrator should design and implement major projects. Selection of staff, training, work standards and behavior, facilities, and equipment are all within the realm of the Court Administrator as C.O.O. Media contact should be restricted to the Presiding Judge and the Court Administrator, except in larger courts which have a Public Information Officer.

Regular contact with the executive and legislative branches, including the funding authority and the other components of the justice system, should routinely fall within the

responsibility of the Court Administrator, particularly in discussions regarding the generation of revenues. In this way, the Court Administrator not only frees up valuable time for the Presiding Judge, but also serves as a buffer to protect judicial independence, impartiality, and integrity.

All of the above functions must be accomplished by the Court Administrator in light of the court mission and vision, and with full accountability to the Presiding Judge for results achieved. Exactly how much latitude and independence are granted the Court Administrator depends on a number of factors, not the least of which are the backgrounds, personalities, and professional competencies of the Presiding Judge and the Court Administrator. For example, the C.E.O./C.O.O. model presumes a Court Administrator who is a professional manager. While this is increasingly the norm, there are Court Administrators who are essentially promoted clerical staff who do not have the education, training, and experience required of a professional manager. In such instances, the professional management of the court may suffer even if the Presiding Judge contributes more to the management effort, something that is not desirable in the professional partnership model presented.

A worthwhile project for the National Center for State Courts, with others such as the National Association for Court Management, would be to develop a detailed job description for the professional Court Administrator using the C.E.O./C.O.O. partnership model presented in this paper. Absent such a professionally prepared and endorsed job description, the roles and responsibilities of Presiding Judges and Court Administrators

will continue to be ambiguous and the management of court organizations may not be optimized.

The chapters that follow present the case study of the Tempe, Arizona Municipal Court. This case study is from the perspective of the author who is Court Administrator and operates in a C.E.O/C.O.O partnership with the Presiding Judge. It is hoped that the events described and discussed in the case study will shed some practical light on this type of partnership as it relates to court management and court reform.

## **CHAPTER II**

### **THE SETTING**

## **Chapter 2**

### **THE SETTING**

This paper deals with the topic of court management and court reform in light of a case study, i.e., what actually happened in the Tempe, Arizona Municipal Court from the beginning of 1994 to the end of 1995. To understand better the case study that will be presented, it is necessary to be aware of the setting. Therefore, this chapter will present a brief overview of the Arizona Judicial Branch, a description of the City of Tempe, and a description and analysis of the Tempe Municipal Court prior to the author's arrival in January, 1994.

Arizona is the youngest of the 48 continental states with a birthday of February 14, 1912. Appendix "A" is a "A Guide to Arizona Courts" published in August 1995 by the Administrative Office of the Court. It contains a summary history of the judicial branch in Arizona, an organizational chart, and a brief explanation as to how the various levels and components of the judicial branch work. Note that Limited Jurisdiction Courts, which include Municipal Courts such as Tempe, handle over 90% of the court's business throughout the State.

Court management and court reform have been a continuing concern in Arizona since statehood. While this case study deals with the Tempe Municipal Court, Limited Jurisdiction Courts have been a topic for public debate well before problems surfaced in Tempe. The Honorable Robert Dorfman, Presiding Judge of the Phoenix Municipal Court, authored a draft report on Limited Jurisdiction Court Reform in July, 1995. This draft report is included in its entirety as Appendix "B" so that the interested reader will be

better able to understand the context of court management and court reform as it occurred in the Tempe Municipal Court.

The City of Tempe, Arizona is located in Maricopa County, which is the state's population center and includes the City of Phoenix, the State's Capitol. Tempe is home to Arizona State University, has a population of some 160,000 residents, and has been designated an "All America City". Tempe's forty (40) square miles are primarily residential but include some light industry. The population is largely middle to upper middle class with a dominance of young and middle aged professionals. Tempe is considered a highly desirable place to live and work. Most branches of City government are award winners which have received public recognition from professional organizations. Interestingly, some neighboring city governments can make the same boast, with the City of Phoenix recently named as the best managed city in the world. This information is important because city government in this context is a combination of the executive and legislative branches. The Limited Jurisdiction Court in Tempe and neighboring communities, i.e., the judicial branches, cannot make these same boasts.

In 1992, the City of Tempe undertook a comprehensive review of all departments and functions of City government. The process used organizational review teams. These teams were comprised of City employees who had undergone specialized training, and their purpose was to identify needed improvements.

In November, 1993, the City Organizational Review Team assigned to the Tempe Municipal Court published its report. The executive summary of that report is contained in "Volume Two", Appendix D and includes extensive analysis and discussion of the Court

as well as 56 recommendations for improvement. At the time this report was published, the author was the ranking civilian manager of the Tempe Police Department with the title of Office of Management and Budget (OMB) Director and served as the Administrative Chief of Staff. The Police Chief gave the author a copy of the report on the Court for review because the author had been tasked with developing strategic initiatives for the Tempe criminal justice system. Following a review of the report, the author informed the Police Chief that the report was not only a written indictment of the management of the Court, or more specifically the lack of management, but was probably even more devastating for what it did not state. The report was described as a bomb just waiting to go off. That information was relayed to the City Manager and the Deputy City Manager who had been designated the City's liaison to the Court.

One of the Organizational Review Report recommendations was that the Presiding Judge should hire a Court Administrator. As more people reviewed the report on the Court over the next two months, pressure began to build for the Presiding Judge to make some immediate moves to improve the management of the Court and not wait to hire a permanent Court Administrator.

On Thursday, January 20, 1994, the Police Chief advised the author that he might be asked to provide some temporary help to the Court. On Friday, January 21, 1994 the author met with the Presiding Judge, the Deputy City Manager who served as liaison to the Court, and the Police Chief. At that meeting, the Presiding Judge requested that the author help the Court implement some of the Organizational Review Report recommendations until a permanent Court Administrator could be hired. The author

proposed the C.E.O./C.O.O. model which was discussed earlier in this paper. The Presiding Judge agreed, and the author was named Interim Court Administrator reporting to the Court on Monday, January 24, 1994 (see Attachment #1).

What follows in Chapters III and IV is a detailed account of what happened once the author reported for duty as Interim Court Administrator. While the text may be read as a complete narrative, it would be helpful to the general reader—and essential to the reader concerned with details—to turn to "Volume II," Appendix D, which is the Executive Summary of the Organizational Review Report on the Tempe Municipal Court, before reading the remainder of this paper. The reader would also be well advised to read "Volume II," pages 1-3, which is the Executive Summary of the A.O.C. Operational Review of the Court.



## **CHAPTER III**

### **OPPORTUNITY**

## **Chapter III**

### **OPPORTUNITY**

On Monday, January 24, 1994, the author reported to the Tempe Municipal Court as Interim Court Administrator. The organizational review report had been read and reread, and the recommendations for improvement had been carefully reviewed. Following a meeting with the Presiding Judge, various internal and external correspondence were published. Some of these were signed by the Presiding Judge and some by the Court Administrator. Topics that were addressed ranged from the appearance and behavior of staff to discontinuing the special access to pending DUI cases enjoyed by one particular defense attorney.

That first Monday morning, the Presiding Judge displayed a check for over \$900,000 made out to him from the MGM Grand Credit Union in Las Vegas, Nevada. While the Presiding Judge was publicly recognized as a high stakes gambler (he had even been written up in the local paper when he won a card tournament in Las Vegas), the amount involved was cause for concern. The Presiding Judge explained that the weekend before (January 22, 1994) he had been evicted from Harrahs because he had a history of winning too much money there, and was driven by Harrahs' staff to the MGM Grand. While at the MGM Grand, he had won the \$900,000 mentioned above. Note that throughout the remainder of that first day, the Presiding Judge had occasion to pull out his wallet which was stuffed with one hundred dollar bills to the point that the wallet

could hardly be folded. Despite the huge check and a large amount of cash on hand, the Presiding Judge also made brief mention of large gambling losses. However, the losses did not seem to concern him. He indicated that he had formed a private corporation which consisted of limited partners who made large cash investments which he would use for gambling. He got a salary plus a percentage of the winnings. He also mentioned that the weekend before he won the above mentioned check, he had won some \$800,000 in Las Vegas.

The first day was spent by the author meeting various staff members, reviewing records, and trying to get a feel for how the Court was managed. It was an overwhelming experience. Wherever the author went in the Court, both bench and staff seemed stressed and even fearful. Some staff seemed to believe that the author had been assigned to "clean house," so a flow of information began. While some of the information was clearly unsubstantiated and speculative, other information seemed to be verifiable.

The second day, the author learned no meetings were held in the Court except for those which were one-on-one with the Presiding Judge. When the author called meetings and talked to staff, they strongly voiced their need for meetings. The Presiding Judge was in and out of the office the second day.

It soon became evident that the staff were used to the Presiding Judge being gone a lot. Information surfaced (later confirmed) that the Presiding Judge was not only gone days at a time, but also for weeks at a time while not on official business, vacation, or sick leave.

There were no formal written Court policies or procedures, and the work

environment could be described as disorganized, chaotic, and worse. While there was a Court computer system, it did not appear to be user friendly and it was difficult to determine just how helpful the system was in getting the work done. The organizational chart was unavailable, and when it finally did surface, it was clear that it did not represent how the work of the Court was organized.

Approximately half of the Court budget was in a contracted services account, and numerous Court staff were temporary hires. In addition to the Presiding Judge, there was a contract judge, one nearly full-time pro-tem judge, and a contract with non-employee hearing officers. Not only were records lacking, e.g., contracts, but it was also painfully obvious that basics such as pens, pencils and notepads were not readily available.

Rumors about favoritism and "deals" ran rampant throughout the Court. There was no training program, and there were even rumors that reports to the A.O.C. were "doctored" or just plain fabricated. Given the above, the author initiated contacts with the Organizational Review Team in an attempt to gain more information. This became necessary because, in addition to what Court staff were stating, the Presiding Judge's statements were contradictory and at some points simply did not make sense. His attention span was very short (he claimed to have attention deficit disorder - in addition to a plethora of other physical problems), and some employees stated that the Presiding Judge was an habitual liar. Day three in the Court continued much the same as days one and two. It was clear that what was observable was very much out of order and there was a good chance that the unobserved was also out of order.

Wednesday evening the author sat down with all of the information which had been

obtained and tried to sort things out. Was it possible that there was a major scandal in progress which included criminal wrongdoing? Or was it possible that the Court was simply a dramatic example of bad management and that the information provided to the author was simply false and malicious?

The author had enough experience in government to know that, even with formal legitimate authority and appropriate resources, it is often difficult to accomplish what needs to be accomplished. Therefore, there was a strong disinclination to subscribe to rumors. In an attempt to make sense out of what had happened to date, the author spent the night putting information into various categories of veracity. The technique that finally worked was boolean analysis wherein all of the information that was either true or could reasonably be expected to be true was put into one circle, and all of the rumors were put into a second circle. The second circle was larger than the first, but what caught the author's attention was a significant overlap between the two circles which seemed to indicate that many of the rumors might be related to fact.

Thursday, the author met with the City Organizational Review Team members who did the report on the Court. Following a review of criminal law, including information on accessories and obstruction of justice, the team members confided that they had also heard rumors of possible criminal wrongdoing but were not in a position to conduct a criminal investigation. They had satisfied themselves that their report would lead to a more comprehensive review of the Court; and they were hopeful that if there was criminal wrongdoing, it would eventually be uncovered and dealt with. Their "gut feeling" was that there was criminal wrongdoing in the Court.

By Friday morning, the author was convinced that City authorities needed to be briefed that there was at least some probability that there might be criminal wrongdoing in the Tempe Municipal Court, and that the Presiding Judge was a key actor in any such wrongdoing. At the Friday morning City Management Team meeting, the author was introduced as the Interim Court Administrator who had been assigned to help out the Court because the Presiding Judge had been wearing two hats (Presiding Judge and Court Administrator) and needed help to implement the organizational review recommendations. The City Manager and the Deputy Manager, who was the liaison to the Court, were both in Atlanta on City business and would not return until the following Tuesday. However, the City Attorney was present, as was the other Deputy City Manager who had made the above introduction.

Immediately following the above meeting, the author met with the City Attorney and briefed him on what had been uncovered to date with the conclusion that there was some probability of criminal wrongdoing and that action would need to be taken. The City Attorney asked if the author had prepared any notes and the answer was only informal notes. The City Attorney advised that those notes should be typed up for a meeting with the City Manager. As a result, the City Manager was contacted in Atlanta and a meeting was set up for the following Tuesday.

The author contacted the OMB secretary in the Police Department, swore her to secrecy, and received help preparing notes for the Tuesday meeting. Due to rumors of organized crime involvement, the secretary was directed to place an extra copy of the above notes in a place where no one else could find them so that if something

happened wherein the author was unable to present his report at the Tuesday meeting, those notes were to be immediately forwarded to the City Manager, the Mayor, and the Police Chief.

On Tuesday, February 1, 1994, the author met with the City Manager in his office. Also present were the City Attorney and the Deputy City Manager who had introduced the author at Friday's City Management Team meeting. The briefing began at 1500 hours and at 1630 hours, the City Manager determined that the Mayor needed to be briefed. The Mayor then received a thirty minute summary briefing.

Everyone agreed that something needed to be done: the challenge was to figure out who should do what and in what order. Due to the independence of the Court as the third branch of government and due to the Arizona Constitutional provision for an integrated judicial department, it was determined that the Presiding Judge of Maricopa County, C. Kimball Rose, needed to be briefed. The City Attorney agreed to set up that meeting; it was subsequently calendared for that Friday, February 4, 1994. As the reader will soon learn, that meeting never took place.

Judge Mirretti was in Maricopa County Superior Court Monday through Wednesday of week two, and did not return to the Tempe Municipal Court until Thursday, February 3, 1994, at approximately 0930 hours. When he walked into the Court office he seemed agitated and indicated that we needed to discuss some things. The author had committed earlier to brief the Presiding Judge upon his return. Due to the fact that the Presiding Judge was known to carry a gun in his briefcase, and due to a desire to remove potential emotional and or physical outbursts from the Court area, the author was successful in

having the Presiding Judge walk downtown with him to a local coffee shop which had an outside patio area.

With coffee in hand, the author gave Judge Mirretti a summary briefing of fact and rumor. The Presiding Judge requested the author's help to think things through. The author requested the Presiding Judge to clarify his request; the Presiding Judge replied that he had never done anything criminally wrong, but that he had been guilty of doing some personal business on Court time and being gone from the Court for long periods of time. Given that information, the author agreed to help him think things through.

The Presiding Judge indicated that for his family's sake he did not want an investigation into his activities. He indicated that he was particularly sensitive to such an investigation due to rumors of alleged sexual relationships in and outside of the Court. Following an intense discussion, the Presiding Judge decided he would resign and asked the author to draft a letter of resignation and set up a meeting with the Mayor.

Upon our return to the Court, the author contacted the Mayor's secretary and was given an appointment for 1330 hours that afternoon. The author also requested that runners be obtained to deliver the Presiding Judge's resignation letter to the Chief Justice of the Supreme Court and to the Presiding Judge of Maricopa County. In the meanwhile, the Police OMB Secretary assisted the author in preparing a letter of resignation for the Presiding Judge. The Presiding Judge subsequently signed the letter and copies were made.

The meeting between the Presiding Judge and the Mayor occurred on schedule, and the Judge resigned. Judge Mirretti then met with the Deputy City Manager who was liaison



to the Court (who asked Judge Mirretti to reconsider his resignation). Following this meeting, we returned to the Court and Judge Mirretti left. At that point the author assumed, wrongly, that things would settle down and the work of improving the management of the Court could continue uninterrupted.

That evening the author was having dinner at the home of a friend when a Tempe Police Lieutenant called indicating that armed Officers from the Department of Public Safety had physically taken possession of the Court at the order of the Arizona Attorney General. The author immediately went to the Court. An on scene investigation determined that the Arizona Supreme Court had ordered the Department of Public Safety to seize the Court.

At approximately 0530 hours on Friday morning, the author returned to the Court and was greeted by staff from the A.O.C. who had formally seized the Court. It was determined that the Presiding Judge of Maricopa County would be on scene at approximately 1100 hours. In the meanwhile, the Court computer system was shut down, and all written and computer records were seized. Criminal investigators from the Attorney General's Office were also on scene. By day light, the media had arrived and something of a circus atmosphere developed.

At 1100 hours, C. Kimball Rose, Presiding Judge of Maricopa County, arrived and immediately convened a meeting. Judge Rose, the A.O.C. staff, the criminal investigators from the Department of Public Safety, and the author attended. The supervising investigator began to Mirandize the author, at which point the author indicated that he would like the opportunity to provide the same information he had given to the City Manager, City

Attorney, and Mayor. The author stated that this was the information he was scheduled to give Judge Rose later that day.

Following an hour briefing by the author, Judge Rose indicated that he would act as Interim Presiding Judge of the Tempe Municipal Court and requested that the author continue as Interim Court Administrator during the seizure and criminal investigation.

Unknown to the author until after the Court had been seized, an informant had called the Arizona Department of Public Safety several days earlier with information implicating Judge Mirretti in criminal wrongdoing. When Judge Mirretti resigned, the Arizona Supreme Court decided to seize the Court to preserve evidence.

Not only did the Court remain open during the Supreme Court's seizure, but a number of major activities took place simultaneously. The Mayor and Council needed to be briefed regularly; they are both the appointing authority for the Presiding Judge and the Court's funding authority. The City Manager and the key staff needed to be briefed on a regular basis because they support the Court in numerous ways ranging from automation and personnel to maintenance. The A.O.C. staff were conducting a complete operations audit (see "Volume II", pages 1-34). The Attorney General was conducting a criminal investigation. As a long term City employee and the Interim Court Administrator, the author was a part of all of the above efforts in addition to serving as one of the three Court contacts with the media (the other contacts were Judges Rose and Arkfeld).

While Judge Rose continued in his role as Presiding Judge of the County and the Interim Presiding Judge of the Tempe Municipal Court, he very quickly brought in Superior Court Commissioner Toby Gerst to help him until he could find a long-term Interim

Presiding Judge. That long-term Interim Presiding Judge showed up at the end of February in the person of Louraine C. Arkfeld who was the Assistant Presiding Judge of the Phoenix Municipal Court. The author brought in key staff from the Police Department and in addition was loaned a supervisor from the Scottsdale Municipal Court.

The A.O.C. operational review and the Attorney General's criminal investigation were conducted in parallel for the first several weeks; later the criminal investigation split off and physically moved out of the Court. In the meanwhile, however, the most difficult task was to keep the Court open while trying to figure out just what had been going on. Several days into the Court seizure, the author was meeting with the A.O.C. staff. Everyone was literally overwhelmed by all of the irregularities that had been going on, but what was lacking was the big picture. At that time, the author suggested that perhaps we were missing the target in that we were assuming the Court was organized, staffed, funded, etc. in such a manner as to "produce" justice. Perhaps the way to figure out what really had been going on was to go back and look at all of the systems in place, e.g., organization, budgeting, and staffing, and assume that they actually worked for the personal benefit of the Presiding Judge and others. To wit, we began to follow the money, much as the Watergate investigation had done.

What happened next was startling. Everything fell into place.

- The computer system was a sham and did not provide management information.
- Only half of the non-judicial staff were regular positions; the remainder were temporary, part-time, etc.

- The Civil Traffic Hearing Officers were working in the Court on a contract basis.
- One of the two Criminal Court Judges was a pro-tem judge working without a contract.
- Driving School personnel were actually working in the Court on the same basis as court staff.
- Defense Attorneys were allowed to handle Court files and records the same as Court staff.
- There were no written policies and procedures.
- There were no procedures in place that accounted for monies in/out.
- The Public Defender contract had not been bid and payments had been significantly increased for no apparent reason.
- There was minimal supervision.
- There were no management positions in the Court.
- Bond card amounts were dramatically higher than other courts.
- Nearly half of the Court's operating budget was in a contracted services account which was not properly accounted for.
- There were only two staff supervisor positions and one of those positions was vacant.
- There were no current job descriptions for staff.

In fact, what was going on in the Court provided for nearly no accountability. The public image of the Court projected by Judge Mirretti was a sham. Even though the Court brought in more in revenues to the City than what it cost to run the Court, there was more than enough room for criminal wrongdoing. The lack of organization and accountability provided fertile soil for multiple abuses which no one was in a position to identify easily.

Judge Rose, Judge Arkfeld, and the author quickly determined that the entire Court organization needed to be redone, even while the A.O.C. operational review and the Attorney General's criminal investigation were in progress. It was also determined that all of the contracts with the Court needed to be redone, and that financial accountability procedures needed to be implemented immediately.

By March 17, 1994, an initial briefing document was prepared for Mayor and Council. Supplementary material was prepared as of March 24, 1994; and by March 31, 1994, the final document went to Mayor and Council. It included the status of the Court, a Court reorganization plan, and a FY 94-95 budget. In effect, the Mayor and Council were asked to approve a new Court organization and budget that addressed all of the concerns and weaknesses that had been identified to date. The Mayor and Council were also advised that the Court might submit supplementary requests during FY 94/95 based on further findings from Court management, the A.O.C. operational review, and the Attorney General's investigation. The Mayor and Council approved the requests as submitted, and the new Tempe Municipal Court was born. See Appendix B of "Volume II" for the document approved by Mayor and Council.

The organization and budget of the Court were completely redone. New job descriptions were created for Court Services Specialists I/II and four senior positions to be Team Leaders/Supervisors. Two Deputy Court Administrator positions were created. All staff positions became regular, full-time positions with fully developed job descriptions (see Attachment #2). Hearing Officers became regular Court employees. All contracts with the Court had either been redone or were in the process of being redone. The implementation of the reorganization plan allowed the Presiding Judge and the author to cut through all of the confusion and wrongdoing and move ahead to create a professionally managed and fully accountable, but independent, Tempe Municipal Court.

The seizure of the Court continued until May 23, 1994, when Louraine C. Arkfeld became the regularly appointed Presiding Judge, and the author began his first day as the regular Court Administrator. Eventually, the Tempe Municipal Court had an entirely new criminal and civil bench, several new staff members, a new public defender contract, a new defensive driving school contract, new alcohol/drug screening contract, new supervisors, and new staff management positions. During this entire period, the Presiding Judge and the Court Administrator continued to operate in a partnership described earlier as the C.E.O./C.O.O. model.

Mission and vision statements were developed; they guided all the activities and developments in the Court ( see Attachment # 3). Likewise, the Court received a physical overhaul which included everything from security to removing graffiti from walls. Our efforts during 1994 were so successful that during the Fall of 1994, the Presiding Judge of Pinal County and the A.O.C. requested that the Tempe Municipal Court

management provide support to the Apache Junction Municipal Court which was experiencing significant operational problems.

In the meanwhile, a number of criminal indictments occurred. Former Presiding Judge Stephen Mirretti signed a plea agreement which included up to 10 years in prison with fines and restitution amounting to several hundred thousand dollars.

Court operations continued to be improved. Tremendous backlogs were addressed, and the Court computer system was significantly improved. A Tempe Criminal Justice System Working Group including the Court, the Police, Prosecutors, and Diversion staff began meeting on a monthly basis to coordinate activities from a systems perspective so that effectiveness could be increased while maintaining the independence of the Court.

## **CHAPTER FOUR**

### **STABILIZATION**



## Chapter 4

### STABILIZATION

In January, 1995, the author, both Deputy Court Administrators, and the Court Secretary began a zero-based budget analysis for the Tempe Municipal Court. Every line item in all three cost centers (Administrative Division #1410, Criminal Division # 1411, Civil Division #1412) was completely analyzed and then restructured. The result was a revised budget for FY 1994/1995 and a completely restructured budget for FY 1995/1996. Attachment #4 is a summary document indicating how the Court's budget was revised and restructured.

It was decided that a State of the Court message would be forwarded by the Presiding Judge to Mayor and Council. That message was forwarded on January 27, 1995 and a copy is attached for the reader's review (see Attachment #5). That message is a comprehensive review of the Court: what had been accomplished to date; what remained to be accomplished; the identification of the budget and resources necessary to complete FY 1994/1995; and the identification of the budget necessary for FY 1995/1996.

The budget and resources necessary to complete FY 1994/1995 are indicated on a staff summary document that went to Mayor and Council on March 16, 1995. The adoption of that document (see Attachment # 6) enabled the Court to complete FY 1994/1995 within budget. Revenue projections by City Management Services Department had projected Court revenues to the City at \$1.7 million based on the old Judge Mirretti Court; the new Court projected some \$2.3 million, \$600,000 more in revenue to the City. At the close of FY 1994/1995, the actual revenues to the City were \$2.6 million.

FY 1995/1996 began July 1, 1995. The reader's review of the budget document will indicate that the Court's budget was significantly decentralized from the Administrative Division to the Criminal and Civil Divisions. This was a key development in the empowerment of the Deputy Court Administrators as division managers. The thrust of the Court for this second full fiscal year has been stabilization: a decentralized budget, development of Team Leaders, training and cross-training for staff, written policies and procedures, an improved automation system, and the development of a quality control effort based on the Court's Mission and Vision.

Key to the on-going improvement of the Court is the creation of a new team in January 1996 to handle financial services. This team will be staffed by a new supervisor, a new staff member, and two existing staff members. It is anticipated that revenues will continue to increase due to this new team.

Computerization/automation has continued to develop. Currently, forms are generated on line in the courtrooms, with Spanish language forms as an option. The Court's goal is to have a comprehensive real time, on-line, fully automated court system in place by the end of FY 1997/1998. This system will be user friendly to internal and external customers. It will also minimize future staff increases by improving the Court's effectiveness and efficiency.

The Tempe Criminal Justice Working Group has continued to improve the components of the criminal justice system. The Court has played a key role in this Group, thereby fulfilling its obligation to be cooperative as well as independent.

The completion of FY 1995/1996 should see the Tempe Municipal Court as a well managed, customer service oriented organization, operating professionally within modern management parameters, independent and cooperative, and guided by a strong sense of Mission and Vision.

## **CHAPTER FIVE**

### **RECOMMENDATION**

## Chapter 5

### RECOMMENDATION

This paper is about court management and court reform. Those topics have been addressed in general as well as demonstrated through the case study of the Tempe, Arizona Municipal Court which has developed from a state of chaos and criminal wrongdoing to a recognizably modern and professional organization.

The partnership between the Presiding Judge and the Court Administrator is key to court management and court reform. Without the guidance, support, and enthusiastic participation of the Presiding Judge, the success story which has been presented to the reader could not have occurred. The Chief Executive Officer/Chief Operating Officer model is vital to the success of any court organization.

Another key to the success of any court organization is the need to understand and balance the concepts of independence and cooperation. In Tempe, cooperation of all parts of the City government were crucial to the depth, breadth, and rate of success that the Court experienced.

It was noted earlier that a primary problem facing our nation is the lack of a consensus of what it means to be an American. The "E Pluribus" has completely dominated the notion of "Unam." The group nature of our species has given way to a fragmented sense of individuality which sees its expression in the articulation of specific rights for every identifiable group that has experienced the injustice of discrimination.

Only the courts are in a position to affirm the rights of individuals and the rights of identifiable groups which have been unfairly discriminated against, as well as the rights

of society as a whole. It is the healthy balance of everyone's rights within the context of equal protection of the laws that gives life to the court as an institution.

In order for the court to play this crucial role in our society, court organizations must be well managed with clear missions and visions. This means that the legal model of the bench must be balanced by the management model of the staff. The increasingly important role of the Court Administrator must be articulated and facilitated. This is not to suggest that the tail should wag the dog. Court management must be the concern of Presiding Judges as well as Court Administrators, but management is a means to an end. The end or purpose of the court is justice.

Given all of the above, the author would recommend that the National Center for State Courts initiate a national dialog to focus on the C.E.O./C.O.O. management model for Presiding Judges and Court Administrators. A fully developed and institutionalized C.E.O./C.O.O. management model would significantly improve court organizations. The result would be a court institution better able to contribute positively to our nation during this period of unprecedented change.

## **ATTACHMENTS**

**ATTACHMENT # 1**

**APPOINTMENT OF INTERIM COURT ADMINISTRATOR**



APPOINTMENT OF INTERIM  
COURT ADMINISTRATOR

M E M O R A N D U M

FROM: Stephen Mirretti, Presiding Judge

TO: Mayor Harry Mitchell  
Tempe City Council Members  
Terry Zerkel, City Manager  
Jim Piper, Deputy City Manager  
Dave Merkel, City Attorney  
Dave Brown, Police Chief  
Judy Greenburg, Organizational Review Team Project Leader

DATE: January 17, 1994

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On December 17, 1993 the City Council approved several broad policy changes for Tempe City Court as recommended by the Organizational Review Team and approved by the Steering Committee. The comprehensive and extensive nature of these recommendations provides a tremendous opportunity for positive change and a substantial challenge in terms of implementation.

I have requested, through the City Managers office, a temporary assignment from within the organization to help with this implementation and to serve as interim Court Administrator.

I am very pleased that John Greco has accepted this assignment beginning January 24, 1994. His talent and expertise will certainly allow us to develop and realign the current City Court resources so that they may be used to the full potential and deliver the highest level of service.

I would like to add my personal thanks to Chief Brown for his help and cooperation.

**ATTACHMENT # 2**

**JOB DESCRIPTIONS**

COURT SERVICES SPECIALIST I/  
COURT SERVICES SPECIALIST II

DEFINITION

To perform a variety of specialized clerical work in support of the operations and services of the Tempe City Court; to process, record and file court documentation; to assist the public with court procedures and services; and to provide clerical support to administrative and judicial personnel.

DISTINGUISHING CHARACTERISTICS

Court Services Specialist I - This is the entry level class to the Court Specialist series. This class is distinguished from the Court Services Specialist II by the performance of the more routine tasks and duties assigned to positions within the series including assisting the public with court services. Since this class is typically used as a training class, employees may have limited directly related work experience.

Court Services Specialist II - This is the full journey level class within the Court Services Specialist series. Employees within this class are distinguished from the Court Services Specialist I by the performance of the full range of duties including the most complex or sensitive work. Employees at this level receive only occasional instruction or assistance as new or unusual situations arise, and are fully aware of the operating procedures and policies of the work unit. Positions in this class are flexibly staffed, and are typically filled by advancement from the lower class of the series, or when filled from the outside, require prior court services or court operations experience. Appointment to the higher class requires that the employee be performing the full range of duties assigned to the class.

SUPERVISION RECEIVED AND EXERCISED

Court Services Specialist I

Receives general supervision from the Senior Court Services Specialist or from other supervisory or management staff.

Court Services Specialist II

Receives general supervision from the Senior Court Services Specialist or from other supervisory or management staff.

## CITY OF TEMPE

### Court Services Specialist I/II (continued)

operations as needed.

Code defaulted citations for license suspension; inform the Department of Motor Vehicles (DMV) of defaulted citations.

Call jurors and maintain the jury panel; act as bailiff for court actions as required; prepare courtroom, judge's bench and daily paperwork.

Prepare monthly statistical reports as required.

Perform related duties as assigned.

### QUALIFICATIONS

#### Court Services Specialist I

##### Knowledge of:

English usage, spelling, grammar and punctuation.

Modern office procedures, methods and computer equipment.

Techniques and methods of customer service.

Principles and practices of record keeping.

Basic mathematical skills.

##### Ability to:

Learn and correctly interpret and apply the policies and procedures of the City Court.

Learn legal terminology frequently used in court proceedings.

Type at a speed necessary for successful job performance.

Operate office machines and computer terminal.

Maintain accurate files and records.

CITY OF TEMPE  
Court Services Specialist I/II (continued)

Respond to requests and inquiries from the general public.

Understand and carry out oral and written instructions.

Perform simple mathematical calculations.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Two years of general clerical experience, including some public service contact, preferably in a court or law office.

Training:

Equivalent to completion of the twelfth grade. Additional specialized training in word processing, filing and record keeping, or related field is desirable.

Court Services Specialist II

In addition to the qualifications for Court Services Specialist I:

Knowledge of:

Legal terminology frequently used in court proceedings.

General court policies and procedures.

Public service techniques as applicable to the operation of a court.

CITY OF TEMPE  
Court Services Specialist I/II (continued)

Computerized data system used in the Court including data entry, retrieval, updating and applicable codes and procedures.

Appropriate City resources and staff necessary to accomplish the work of the Court efficiently and effectively.

Ability to:

Interpret and apply the policies and procedures of the City Court.

Respond to and resolve difficult or sensitive customer inquiries or problems, including dealing with hostility, in a fair, tactful and professional manner.

Utilize the appropriate City resources and staff to accomplish the work of the Court efficiently and effectively.

Adapt to changing work situations and assignments.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Three years of responsible clerical support experience, including considerable public service responsibility, in a court.

Training:

Equivalent to completion of the twelfth grade supplemented by additional training in word processing, filing and record keeping, or related field.

*This class specification is intended to indicate the basic nature of positions allocated to the class and examples of typical duties that may be assigned. It does not imply that all positions within the class perform all of the duties listed, nor does it necessarily list all possible duties that may be assigned. For a listing of essential functions, see the recruitment bulletin at time of job opening*

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*Effective May 1994*

## **COURT SERVICES SUPERVISOR**

### **DEFINITION**

To perform complex and responsible clerical and supervisory duties in support of the City Court; to act as team leader for the court services clerical staff to ensure the efficient and effective operation of the criminal, traffic, technical and court services sections of the criminal and civil divisions of the City Court; and to provide technical support to the Court Administrator, Deputy Court Administrators and Judges in areas such as court schedules, dockets and calendars, records, files and computerized systems.

### **SUPERVISION RECEIVED AND EXERCISED**

Receives general supervision from the Deputy Court Administrator or other management staff.

Exercises direct supervision over clerical staff.

### **EXAMPLES OF DUTIES** - Duties may include, but are not limited to, the following:

Plan, organize, prioritize, assign and supervise the work of the clerical staff in the criminal and civil divisions of the City Court; act as team leader for the clerical staff of a section of the criminal or traffic division of Tempe City Court.

Assist in the coordination of traffic or criminal court activities including providing assistance to the public, Judges and attorneys as required; process probation revocations, arraignments, summons, warrants, notifications and dispositions.

Respond to requests from defendants regarding traffic fines, trials or hearings, warrants, extensions, jail bond outs, posting bonds, arraignments and other information pertaining to court processes, services, regulations, policies and procedures; monitor sentences which may include fines, community service, jail, counseling, and educational program attendance.

Maintain trial schedules, records disposition on trial calendar, set motions on hearing calendar, clear cases which have been disposed, assist in scheduling resets and mailing reset notices.

Operate computer terminals to access, enter and update warrants; schedule criminal, civil and traffic citations and other related data; review data for accuracy and completeness.

Assist in training of court clerical staff in the processing of court data, documents and information; instruct clerical staff in the use of the computerized operating system

**CITY OF TEMPE**  
**Court Services Supervisor (continued)**

including terminals and data.

Interview and inform defendants of their legal options, establish payment schedules, follow up on outstanding fines or sanctions; accept fine and bond payment, issue receipts and record revenue in the appropriate logs and files.

Function as team leader for any assigned team based on the needs of the Court; act as back-up for all court clerical positions as needed.

Maintain records of appeal from Superior Court, Administrative Hearings and psychiatric exam results.

Perform related duties as assigned.

**QUALIFICATIONS**

**Knowledge of:**

Procedures, processes and work methods used in the operation of a court.

Legal terminology frequently used in court proceedings.

Computerized data systems, including procedures for entering, retrieving and updating information related to court operations.

Modern office procedures, methods and related equipment.

Accepted principles and procedures of record keeping used in the Courts.

Basic mathematical skills.

Principles and techniques of supervision, training and performance evaluation.

Practices and methods involved in providing customer service.

**Ability to:**

Supervise, evaluate and assist in the work of clerical staff.



**CITY OF TEMPE**  
**Court Services Supervisor (continued)**

Recommend, interpret and apply the policies and procedures of the City Court.

Type at a speed necessary for successful job performance.

Input, retrieve and update data using a computer terminal.

Readily adapt to changing work situations and assignments.

Deal effectively with customer diversity, including dealing with sensitive issues and/or hostility.

Communicate effectively both orally and in writing.

Handle confidential, personal customer information with tact and discretion.

Establish and maintain cooperative relationships with those contacted in the course of work.

**Experience and Training Guidelines**

Any combination equivalent to experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

**Experience:**

Three years of responsible clerical and administrative experience in a court.

**Training:**

Equivalent to completion of twelfth grade supplemented by specialized training in data processing, record keeping, customer service or related field. An AA degree in criminal justice, public administration or related field is preferred.

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*This class specification is intended to indicate the basic nature of positions allocated to the class and examples of typical duties that may be assigned. It does not imply that all positions within the class perform all of the duties listed, nor does it necessarily list all possible duties that may be assigned. For a listing of essential job functions, see the recruitment bulletin at time of job opening.*

*Effective April 1994*

DEPUTY COURT ADMINISTRATOR

DEFINITION

To plan, organize and supervise the non-judicial operations of a division of the City Court; to perform a variety of complex tasks related to court administration to include court services, case flow and records management, staffing and facilities; and to provide responsible administrative support to the Court Administrator in areas such as policy implementation, regulatory compliance, budget administration and procurement.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Court Administrator or Presiding Judge or other management staff.

Exercises direct supervision over non-judicial supervisory, technical and clerical staff.

EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:

Plan, organize and supervise the non-judicial activities of the Tempe City Court; recommend and assist in the implementation of goals and objectives; establish schedules and work procedures for clerical personnel; implement policies and procedures.

Plan, prioritize and supervise the work of non-judicial staff involved in court services; participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies; implement disciplinary procedures.

Evaluate operations and activities in assigned areas of responsibility; recommend improvements and modifications; prepare various reports on operations and activities including statistical reports of court cases.

Review procedures and implement operational changes as required in such areas as security and employee safety, automation development and operation, case flow and jury management, and facilities planning.

Participate in budget preparation and administration; prepare cost estimates for budget recommendations; submit justifications for budgeting; monitor and control expenditures.

Provide information for and participate in Request For Proposal (RFP) process and contract preparation; monitor vendor compliance with contractual services, facilities planning and space utilization.

## CITY OF TEMPE

### Deputy Court Administrator (continued)

Coordinate activities of the City Court with other departments such as the police department, and external agencies; serve on various committees and boards as required to coordinate, share and improve existing resources.

Respond to inquiries and complaints from customers and the public; provide information on the policies, procedures and activities of the Court as required.

Schedule and conduct staff meetings; ensure effective communication on criminal justice activities among the Court, Police Department, City Attorney's Office and the Prosecutor's Office; serve as liaison with other City departments regarding changes in operating procedures or implementation of new systems.

Investigate and resolve complaints regarding the non-judicial operation of the Court; develop and implement operating methods to improve operational effectiveness, increase revenues, and reduce operating expenses which will improve the quality of service to customers and the public.

Maintain petty cash fund, oversee distribution of funds and maintain security of petty cash; delegate and monitor such activities as preparation of requisitions and billing, supply inventory and ordering supplies.

Review and approve payroll, attendance, overtime and compensatory records; pre-approve departmental overtime requests.

Perform related duties as assigned.

### QUALIFICATIONS

#### Knowledge of:

All relevant laws, statutes, ordinances and administrative orders governing the administration and operation of the Court such as the Arizona Rules of Criminal and Traffic Procedure.

General policies and procedures of court administration.

Legal terminology frequently used in court proceedings.

Techniques of case flow management and court scheduling used in Court operations.

## CITY OF TEMPE

### Deputy Court Administrator (continued)

Statistical reporting, jury management, accounting and records management procedures established by the Supreme Court.

Principles and practices of municipal court budget preparation, administration and accounting.

Principles of supervision, training and performance evaluation.

English usage, spelling, grammar and punctuation.

#### Ability to:

Plan, implement and supervise court services, programs and activities.

Perform a broad range of administrative support and supervisory duties.

Interpret and apply the City Court policies and procedures.

Supervise, train and evaluate staff.

Input and retrieve computerized data at a speed necessary for successful job performance.

Perform routine mathematical calculations.

Maintain accurate files and records in accordance with established procedures.

Communicate clearly and concisely, both orally and in writing.

Gain cooperation and build consensus among departmental and interdepartmental staff through discussion, participation and persuasion.

Establish and maintain cooperative working relationships with those contacted in the course of work.

#### Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

CITY OF TEMPE  
Deputy Court Administrator (continued)

Experience:

Four years of increasingly responsible administrative experience in the operation of a Court, including a minimum of one year at the supervisory level.

Training:

College level courses in court administration, criminal justice, public administration or related field.

j:\dadmin

*This class specification is intended to indicate the basic nature of positions allocated to the class and examples of typical duties that may be assigned. It does not imply that all positions within the class perform all of the duties listed, nor does it necessarily list all possible duties that may be assigned. For a listing of essential job functions, see the recruitment bulletin at the time of job opening.*

*Effective April 1994*

## CITY OF TEMPE

### COURT ADMINISTRATOR

#### DEFINITION

To plan, direct and supervise non-judicial functions and operations within the Tempe Municipal Court to include court services, fines administration, case flow and records management, procurement, facilities, contractual services and budget administration; to plan, direct and supervise the activities of non-judicial court staff in compliance with Arizona Supreme Court Administrative Order 93-30-Revised Administrative Rule VII-A, Section L; and to provide highly responsible and complex administrative support to the Presiding City Judge.

#### SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Presiding City Judge.

Exercises direct supervision over non-judicial supervisory, technical and clerical staff.

#### EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:

Plan, direct and supervise all non-judicial operations, activities and procedures within the Tempe Municipal Court including court services, fines administration, case flow and records management and budget administration functions; coordinate the activities of the Court with other departments; serve as Clerk of the Court.

Develop, implement and oversee a Department work plan; organize, prioritize and assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures; make recommendations and modifications as required.

Plan, organize and supervise the activities of all non-judicial professional, technical and clerical staff; select, train, motivate and evaluate personnel; provide or coordinate staff training; work with employees to provide performance feedback and correct deficiencies; implement discipline and termination procedures for non-judicial personnel.

Develop, implement, review and refine policies, procedures and systems to support and improve the operational efficiency and effectiveness of the Court; develop long-range plans and programs; identify problems, devise and implement solutions; establish docketing, calendaring and case management policies and procedures in accordance with the guidelines established by the Presiding City Judge.

Develop, prepare and administer contracts, grants and intergovernmental agreements; establish and monitor related programs, activities, and services including diversion programs, traffic school and related contractual services; maintain records and reports regarding Court activities

CITY OF TEMPE  
Court Administrator (continued)

and operations.

Participate in the development and administration of the City Court's budget; direct the forecast of funds needed for staffing, equipment, materials, services and supplies; monitor and approve expenditures; implement mid-year adjustments as required.

Compile and evaluate statistical data related to the efficiency and effectiveness of Court operations, and make appropriate written and verbal recommendations as needed; maintain compliance with requirements governing statistical reporting, jury management, accounting and records management policies and procedures established by the Supreme Court and the Presiding Judge of Maricopa County.

Establish, maintain and improve automation and communications systems as directed by the Presiding City Judge and with the concurrence of the Presiding Judge of Maricopa County.

Respond to and resolve difficult and sensitive citizen inquiries and complaints; meet with the media to provide information and respond to inquiries as required.

Represent the Court with outside agencies such as State Bar, boards and committees, and at interdepartmental meetings and committees as required.

Recommend, establish and monitor bond schedules in coordination with the justices of the peace and magistrate courts within the County.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Organizational and management practices and principles as applied to the management and operation of municipal Courts.

Organizational and management practices as applied to the analysis and evaluation of public sector programs, policies and operational needs.

Arizona Rules of Criminal and Traffic Procedure and Federal, State and local regulations governing the criminal justice court system.

Techniques of case flow management and court scheduling used in Court operations.

CITY OF TEMPE  
Court Administrator (continued)

Statistical reporting, jury management, accounting and records management procedures established by the Supreme Court.

Principles and practices of organization, administration and personnel management.

Research and analysis techniques, methods and procedures.

Administration of public sector finance including contract administration and requests for proposal (RFP) process.

Principles and practices of municipal court budget preparation and administration and accounting.

Ability to:

Develop, implement and administer a variety of programs, practices and procedures in a Municipal Court setting.

Perform a broad range of administrative and supervisory duties.

Effectively plan, implement and administer a strategic plan for the effective and efficient operation of the Court.

Analyze and evaluate statistical data and make recommendations and refinements to increase the efficiency and effectiveness of the Court.

Gain cooperation and build consensus among department and interdepartmental staff through discussion, participation and persuasion.

Communicate effectively, clearly and concisely, both orally and in writing.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:



CITY OF TEMPE  
Court Administrator (continued)

Experience:

Five years of highly responsible experience in the administration and management of a Municipal Court system, including a minimum of two years at the management level.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in criminal justice, court management, public administration, business administration or a related field. A Masters degree is highly desirable.

j:\crtadmin

*This class specification is intended to indicate the basic nature of positions allocated to the class and examples of typical duties that may be assigned. It does not imply that all positions within the class perform all of the duties listed, nor does it necessarily list all possible duties that may be assigned. For a listing of essential job functions, see the recruitment bulletin at time of job opening.*

*Effective January 1994*

**ATTACHMENT # 3**

**MISSION AND VISION STATEMENT**

# TEMPE MUNICIPAL COURT

---

**MISSION:** A statement of the basic purpose of the Court.

## MISSION

To contribute to the quality of life in our community by fairly and impartially administering justice in the most effective, efficient, and professional manner possible.

**VISION:** A brief description of how the members of the Court will interact with each other and everyone else in fulfilling the Mission.

## VISION

- ▶ Work together to serve the public.
- ▶ Treat the public and each other with courtesy and respect.
- ▶ Be ethical in all that we do.
- ▶ Communicate honestly and openly.
- ▶ Be sensitive and caring.
- ▶ Welcome and value individual differences and diversity.
- ▶ Reward well intentioned and well reasoned risk taking.
- ▶ Praise and reward fully, discipline sparingly.
- ▶ Be energetic and hard working.
- ▶ Make every day in the Court both positive and productive.

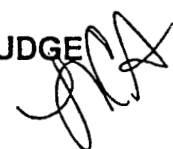
**ATTACHMENT # 4**

**STATE OF THE COURT MESSAGE**

STATE OF THE COURT MESSAGE

**TO: MAYOR AND COUNCIL  
CITY OF TEMPE**

**FROM: LOURAIN C. ARKFELD, PRESIDING JUDGE  
TEMPE MUNICIPAL COURT**

A handwritten signature in black ink, appearing to be 'L. Arkfeld', is written over the 'FROM' line.

**SUBJECT: STATE OF THE COURT**

**DATE: JANUARY 27, 1995**

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## **EXECUTIVE SUMMARY**

**This fiscal year (94/95) the Court's goal has been to rebuild the Court based on the recommendations of the Organizational Review Team, the Arthur Andersen Audits, the Supreme Court Administrative Office of the Court, and the input from City and Court Staff. Our preliminary revised budget estimate for FY 94/95 indicates that the reasonable needs of the Court include an additional \$257,000 dollars over this year's budget and one additional position in March, 1995.**

**During the next fiscal year (95/96) the Court's goal will be to stabilize operations and develop into a whole and healthy organization equal to the other parts of the Tempe Municipal Government and other courts in Arizona. Our preliminary estimates for FY 95/96 indicate that the reasonable needs of the Court include \$238,000 additional dollars over this year's budget, one additional staff position in July, 1995 and two additional staff positions in January 1996.**

**Preliminary projected revenues for this fiscal year (94/95) have increased from \$1.7 million to \$2.3 million, an anticipated increase of \$600,000. Our conservative estimate for FY 95/96 is \$2.4 million. Note that with the additional staff and resources requested, revenues could exceed \$2.6 million. In addition, we have implemented a variety of cost savings measures.**

**Please note that all preliminary budget estimates have been forwarded to City Management Services for their review, to be followed by the City Management Team's review. Formal budget requests will be forwarded to Mayor and Council following these reviews.**

**The State of the Court message is the beginning of a success story: how everyone in the City has worked together to benefit the community. With continued support from Mayor and Council, and all others concerned, the Tempe Municipal Court will be completely rebuilt by the end of this fiscal year and stabilized, whole, and healthy by the end of next fiscal year.**

# TEMPE MUNICIPAL COURT

---

**MISSION:** A statement of the basic purpose of the Court.

## MISSION

To contribute to the quality of life in our community by fairly and impartially administering justice in the most effective, efficient, and professional manner possible.

---

**VISION:** A brief description of how the members of the Court will interact with each other and everyone else in fulfilling the Mission.

## VISION

- ▶ Work together to serve the public.
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- ▶ Be sensitive and caring.
- ▶ Welcome and value individual differences and diversity.
- ▶ Reward well intentioned and well reasoned risk taking.
- ▶ Praise and reward fully, discipline sparingly.
- ▶ Be energetic and hard working.
- ▶ Make every day in the Court both positive and productive.



## **INTRODUCTION**

The purpose of the State of the Court message is to both provide information and encourage feedback. The Court is committed to working with Mayor and Council and the Arizona Judicial Branch to ensure that the justice needs of the citizens of Tempe are satisfied in the most professional and cost-effective manner possible. This message will be provided in January of each year so that Mayor and Council will be informed as to what the Court has accomplished to date during the current fiscal year, what remains to be done to the end of the current fiscal year, and what is planned for the following fiscal year. This process provides an opportunity for Mayor and Council to communicate their priorities to the Court. The Court's goal is to facilitate a cooperative effort which best serves the citizens of Tempe.

Every annual State of the Court message will contain a preliminary revised budget estimate for the current fiscal year and a preliminary proposed budget for the following fiscal year. The preliminary figures will be provided so that Mayor and Council will be briefed early in the budget cycle on the resources needed by the Court. This is particularly important this year because the needs of the Court are inclusive of requests that should have been provided to Mayor and Council in increments over the past several years.

## **HISTORY**

In February 1994, the Tempe Municipal Court was seized by the Arizona Supreme Court. In March 1994, Mayor and Council approved and funded a reorganized Court plan which was designed to allow the Court to begin a rebuilding process necessitated by several years of mismanagement. The seizure was lifted in May, 1994 with the appointment of a new permanent Presiding Judge, and the commitment of the City and the Court to rectify wrongdoings identified by the City Organizational Review Team (including Arthur Andersen Audits) and the Supreme Court Administrative Office of the Courts (AOC).

The reorganized Court plan has been remarkably effective, especially considering all that we did not know at the time the plan was submitted. Today, we have a much better idea as to what resources have been and will be needed for the Court to continue to operate legally and professionally. The additional resources needed will be presented in a preliminary revised budget estimate for the current fiscal year (94/95) and a preliminary proposed budget for FY 95/96. The purpose of the preliminary revised estimate for the current year is to identify what resources are necessary for the Court to continue and complete the City Organizational Review and the Supreme Court AOC recommendations for the remainder of this fiscal year. The purpose of the preliminary proposed FY 95/96 budget is to identify what resources will be necessary for the Court to stabilize operations during the next fiscal year. Note that the estimates which follow are preliminary and will not be final until reviewed by City Management Services and the City Management Team.

## **DISCUSSION**

To date, the Court has operated on a "clean it up, and run it right" mandate directed by Mayor and Council, and the Supreme Court. This has literally meant creating a new Court:

- All contract, temporary, and part-time staff positions have become regular positions.
- City Personnel Rules have been adopted by the Court.
- City Purchasing policies and procedures have been adopted by the Court.
- Management and supervision are in place with a clear Mission and Vision to guide Court operations.
- All contracts have been redone and reviewed by City Purchasing and/or the City Attorney's Office.
- The County's Uniform Bond and Fines Schedule has been adopted by the Court.
- A Division system is in place and operating in cooperation with Police, Diversion, and Prosecutors.
- Required Minimum Cash Handling and Accounting Standards have been implemented.
- Planning is in progress for the Court to expand into the current City Human Resources area (scheduled for January, 1996).
- The City Organizational Review Team recommendations are completed with the exception of the Court Automation Project (scheduled for completion in June, 1995), and related policies and procedures which are in progress.
- The Supreme Court Administrative Office of the Courts Audit recommendations are completed, with the exception of case file audits which are in progress and scheduled for completion in June, 1995.
- There is a completely new bench, i.e., all new full-time Judges and civil traffic Hearing Officers.
- The Court is operating cooperatively as a part of the City Criminal Justice System and the City Management Team, while maintaining constitutional independence as a part of the Arizona Judicial Branch.

The rebuilding of the Court was undertaken with the staff and budget requested in March 1994; however, that staff and budget have not been completely adequate to meet the needs of the Court, given all that has been uncovered since that date. During New Council briefings in Summer 1994, the Court was asked if additional resources would be needed from Council to operate the Court. The Court's response was that there were too many things still being uncovered to make an accurate assessment at that time, but a reasonable guess regarding additional resources would be \$100,000 to \$300,000 additional dollars might be requested. At that time we committed to giving Mayor and Council a mid-year revised budget estimate. This document will fulfill that commitment.

We now have a much more accurate picture of what it has cost and will cost to operate the Court in a fully professional and legal manner. A preliminary revised budget estimate for FY 1994/1995 is attached. It indicates that an additional \$257,000 over this year's budget, plus one additional staff position (in March, 95), are needed to complete the clean up process.

A preliminary proposed budget for FY 1995/1996 is also attached. It indicates that an additional \$238,000 over this year's budget, plus three additional staff positions (one in July 95 and two in Jan. 96) are needed to allow the Court to stabilize operations. Both the preliminary revised budget estimate for this year and the preliminary proposed budget for next fiscal year are conservative but reasonable based on our experience in the Court and input from numerous outside sources. They will be submitted to City Management Services and the City Management Team for their review prior to being finalized and submitted to Mayor and Council for decision (Note that Super Bowl XXX estimates are being processed separately).

While the continued legal and professional operation of the Court requires additional staff and budget, the Court already has and will continue to emphasize good management which includes both cost savings and appropriate revenue generation:

- Historic backlogs have been and are being addressed by overtime rather than by increasing regular staff. This work is scheduled for completion by the end of this fiscal year and then the overtime to eliminate backlogs will be discontinued.
- The completion of the original specifications for the Court Automation Project have been prioritized so that anticipated increased efficiencies will minimize the need for additional regular staff. The Court's preliminary budget estimates take this factor into account.
- The Court dockets have been restructured to minimize County jail costs with an anticipated savings to the City of \$1,000 to \$2,000 per week. (Note that Jail costs are no longer a part of the Court's budget).

- Timely issuance of new warrants and addressing historic backlogs could result in \$300,000 or more in revenues that would otherwise have not been realized.
- The new Defensive Driving School contract is estimated to result in over \$50,000 more in revenues per year over the old contract, given the same number of referrals.
- Three internal Court audits have already resulted in \$113,000 being added to the City's general fund. Additional internal audits will continue.
- The Court is preparing an ordinance for Mayor and Council which will allow the collection of delinquent accounts with the collection fee paid by defendants rather than deducted from the amounts owed. This means that in \$200,000 of collections, revenue could be increased \$60,000 to \$80,000.
- The Court replaced court reporters with audio recording equipment (one time cost of \$10,000) and eliminated a recurring cost that would have exceeded \$50,000 next fiscal year.
- The Court proposed and Mayor and Council approved a civil traffic default fee (\$50.00) ordinance which both improves collections and generates additional revenue.
- The Court is pursuing the options of volunteers and student interns, although lack of space will hinder these efforts until the physical facilities expansion is completed in January, 1996.
- The Court is actively investigating the possibility of grants to improve operations.
- The formal budget structure for remainder of this fiscal year and for next fiscal year has been significantly restructured to ensure maximum accountability.
- While the original revenue projections for the Court totalled \$1.7M for this FY 94/95, that figure is now \$2.3M, an anticipated increase of \$600,000. Revenues are projected at \$2.4M for FY 95/96. However, with the additional staff and resources requested, revenues for FY 95/96 could exceed \$2.6M.

As a matter of philosophy and policy, the Court is committed to minimizing expenses to what is necessary to operate legally and professionally while maximizing appropriate revenues. Note that the attached FY 95/96 Court budget requests include an additional team leader and clerk (for Jan. 96), who would be supplemented by existing staff to prioritize fines enforcement. The experience of other Courts who have done this is that significant increases in revenues result, far exceeding the costs of the new positions.

Because the Court operates as a part of the City criminal justice system, this report would not be complete without mentioning two items outside of the Court which directly impact the Court's ability to operate.

(1) The Prosecutor's Office needs additional staff resources to deal with current and anticipated workloads.

(2) The Information Services Division needs additional staff resources to complete, maintain, and enhance criminal justice computer systems, including the Court Automation Project.

#### CONCLUSION

The preliminary estimates of resources needed for the remainder of this fiscal year and for FY 1995/1996 are conservative but reasonable estimates of what it will take for this Court to address all identified deficiencies and stabilize operations. The result will be a Tempe Municipal Court operating within all legal and professional parameters.

Personally and professionally, I am very pleased with the on-going team effort involving the Court staff, the City staff, the Supreme Court Administrative Office of the Courts, and others. This team effort has allowed us to make great progress in a relatively short period of time. We as a Court have committed to Mayor and Council, to the Supreme Court, and to the citizens of Tempe that none of us will ever again have to deal with the wrongdoings and mismanagement that were uncovered in 1994.

I expect FY 95/96 to be a much less dramatic and stressful year for all of us. And I look forward to the Tempe Municipal Court operating at the same professional level as the other branches of City government, and meeting all standards required of any court in Arizona.

## **RECOMMENDATION**

That Mayor and Council approve the resources needed by the Court to eliminate deficiencies and stabilize operations, i.e., approve the FY 94/95 revised estimate and the FY 95/96 budget when they are formally submitted.

**Attachments: A: Preliminary Budget Estimates  
B: Activity Indicators**

**cc: Terry Zerkle, City Manager  
Dave Merkel, City Attorney  
Dave Brown, Assistant City Manager  
Patrick Flynn, Management Services Director  
Ron Burns, Police Chief  
Shirley Kanode, Human Resources Director  
MiYoung Kim, Management Services, Budget Analyst  
Judy Greenburg, Director City Organizational Review  
Honorable C. Kimball Rose, Presiding Judge  
Superior Court, Maricopa County  
David K. Byers, Administrative Director  
Administrative Office of the Court, Arizona Supreme Court**

**Staff Support:**

**John W. Greco, Court Administrator  
Barbara Lasater, Deputy Court Administrator  
Maurice Evans, Deputy Court Administrator  
Edith Ross, Court Secretary**

.....  
**City Organizational Review Team  
Supreme Court A.O.C. Auditors  
Arthur Andersen Auditors**

# ATTACHMENT A

## PRELIMINARY BUDGET ESTIMATES

FY 94/95

FY 95/96

<p>■ \$257,000* OVER MARCH, 94 BUDGET, AND:</p> <p>(1) BAILIFF - TO SUPPORT SECOND CIVIL TRAFFIC COURTROOM WHERE THERE IS NO BAILIFF. MARCH, 95 HIRE DATE. <u>\$7,442</u> THIS YEAR SALARY &amp; FRINGE BENEFITS. (<u>\$26,651</u> FULL YEAR SALARY &amp; FRINGE BENEFITS).</p> <p>*NOTE: OF THE ABOVE \$257,000: <u>\$43,000</u> JUDGE KOCH SALARY AND FRINGE BENEFITS. <u>\$131,000</u> REGULAR SALARIES. MARCH, '95 SALARY ESTIMATES WERE FOR ENTRY LEVEL POSITIONS. HOWEVER, MORE SENIOR STAFF WERE RETAINED &amp; HIRED. <u>\$83,000</u> OVERTIME FOR BACKLOGS, FORMS, SUPPLIES, &amp; EQUIPMENT.</p> <p>■ REVENUES PROJECTED FROM \$1.7M TO \$2.3M, AN ANTICIPATED \$600,000 INCREASE.</p>	<p>■ \$238,000 OVER MARCH, 94 BUDGET, AND:</p> <p>(1) BAILIFF - TO SUPPORT 3 CRIMINAL COURTROOMS, WITH SIGNIFICANTLY INCREASED WORKLOADS. JULY, '95 HIRE DATE. <u>\$26,651</u> FULL YEAR SALARY AND FRINGE BENEFITS.</p> <p>(1) TEAM LEADER AND (1) CLERK TO STAFF A FINES ENFORCEMENT TEAM. REVENUE GENERATED SHOULD BE SEVERAL TIMES COST. HIRE DATE OF JANUARY, '96. <u>\$30,360</u> THIS YEAR SALARIES &amp; FRINGE BENEFITS. (<u>\$60,720</u> FULL YEAR SALARIES &amp; FPINGE BENEFITS.)</p> <p>RESTRUCTURE/REMODEL CRIMINAL DIVISION WORK AREA \$12,500. ONE TIME COST.</p> <p>COMPUTER &amp; RECORDING EQUIPMENT (2 NEW COURTROOMS) \$34,000. ONE TIME COST.</p> <p>■ REVENUES PROJECTED CONSERVATIVELY \$2.4M. WITH ADDED REVENUES AND STAFF, REVENUE COULD EXCEED \$2.6M.</p>
--	--

WORKLOAD INDICATORS - COST CENTER 1411					
	NTS	FY92-93 ACTUAL	FY93-94 ACTUAL	FY94-95 REVISED	FY95-96 PROJECTED
TRIALS PER YEAR	6				
JURY					
CRIMINAL TRAFFIC		24	19	14	21
MISDEMEANOR		0	0	0	0
TOTAL JURY TRIALS		24	19	14	21
CHANGE			5	5	7
% OF CHANGE			20.83%	26.32%	50.00%
NON-JURY					
CRIMINAL TRAFFIC		31	38	48	50
MISDEMEANOR		96	147	137	144
TOTAL NON-JURY TRIALS		127	185	185	194
CHANGE			58	0	9
% OF CHANGE			45.67%	0.00%	4.86%
PRISONER	7				
DOCKETS PER WEEK		2	3	5	7
CHANGE			1	2	2
% OF CHANGE			50.00%	66.67%	40.00%
INITIALS PER YEAR	8	4,965	5,809	7,687	8,071
CHANGE			844	1,878	384
% OF CHANGE			17.00%	32.33%	5.00%
DOMESTIC VIOLENCE PER YEAR	9	432	482	410	410
CHANGE			50	-72	0
% OF CHANGE			11.57%	-14.94%	0.00%



WORKLOAD INDICATORS - COST CENTER 1411					
NOTE #1					
THIS IS THE TOTAL COURT FILINGS = CRIMINAL					
DIVISION FILEINGS PLUS CIVIL DIVISION FILINGS.					
NOTE #2					
AN INCREASE IN THE NUMBER OF OFFICERS ON THE STREET INDICATES A MINIMUM					
INCREASE OF 5%.					
NOTE #3					
THIS IS THE NUMBER OF DUI CHARGES PENDING AT THE END OF EACH OF THE					
FISCAL YEARS.					
NOTE #4					
AT THE BEGINNING OF FY93-94 THE COURT HAD A BACKLOG OF APPROXIMATELY 1800					
WARRANTS TO BE ISSUED. THE ACTUAL WARRANTS ISSUED IN FY94-95					
SHOW A LARGE INCREASE BECAUSE APPROXIMATELY 1600 OF THESE WARRANTS SHOULD					
HAVE BEEN ISSUED IN FY93-94. BASED ON THE FIGURE THAT APPROXIMATELY					
70% OF THE WARRANTS ISSUED ARE FOR CRIMINAL TRAFFIC, THE YEARLY ADJUSTED					
FOR WARRANTS ISSUED WOULD BE:					
		FY92-93	FY93-94	FY94-95	FY95-96
		ACTUAL	ACTUAL	REVISED	PROJECTED
FTA WARRANTS ISSUED					
CRIMINAL TRAFFIC		978	939	1571	1650
MISDEMEANOR		2388	2338	4499	4724
TOTAL		3,366	3,277	6,070	6,374
CHANGE			-89	2,793	304
% OF CHANGE			-2.64%	85.23%	5.01%
AN INCREASE OF 5% IN THE NUMBER OF CRIMINAL FILING WOULD INDICATE					
AN INCREASE OF 5% IN THE NUMBER OF WARRANTS TO BE ISSUED					
NOTE #5					
THESE FIGURES SHOW THE NUMBER OF FTA WARRANTS PENDING AT THE END					
OF EACH FISCAL YEAR.					

NOTE #6					
TRIALS ARE DIVIDED INTO 4 CATEGORIES: CRIMINAL TRAFFIC JURY AND					
COUR (NON-JURY) TRIALS AND MISDEMEANOR JURY AND COURT (NON-JURY) TRIALS					
BASED ON THE 5% INCREASE IN CRIMINAL FILINGS, A 5% INCREASE IN THE NUMBER					
OF JURY AND COURT (NON-JURY) TRIALS IS INDICATED.					
EVEN THOUGH THERE HAS BEEN A DECLINE IN CRIMINAL TRAFFIC JURY TRIALS					
FROM YEAR TO YEAR, A INCREASE IS BEING PROJECTED FOR FY95-96 BECAUSE					
WHERE UNDER THE OLD 1 DIVISION SYSTEM WE HAVE JURY TRIALS TWICE A WEEK,					
WE NOW HAVE THEM 3 DAYS A WEEK.					
$14 / 2 * 3 = 21$					
NOTE #7					
PRISONER DOCKETS HAVE BEEN INCREASED THROUGH THE YEARS FROM					
TWO PER WEEK TO 5 DAYS A WEEK. IT IS PLANNED THAT IN FY95-96 PRISONER					
DOCKETS WILL BE HELD 7 DAYS PER WEEK.					
THIS MOVE, THOUGH INCREASING OVERTIME AND PROTEM COSTS WILL SAVE					
THE CITY MONEY ON JAIL COSTS BECAUSE MORE CASES WILL BE DISPOSED					
OF AT EACH DAYS PRISONER DOCKET.					
NOTE #8					
AN INCREASE OF 5% IN PRISONER INITIALS IS ANTICIPATED BASED ON THE					
5% INCREASE IN CRIMINAL DIVISION FILINGS.					
NOTE #9					
NO INCREASE IN THE NUMBER OF DOMESTIC VIOLENCE FILINGS HAS BEEN					
CALCULATED BECAUSE OF THE MANY VARIABLES DETERMINING THE NUMBER					
OF FILINGS.					

WORKLOAD INDICATORS-COST CENTER 1412						
		FY 93/94	FY 94/95	%	FY 95/96	% CHANGE
			REVISED	CHANGE	PROJECTED	ESTIMATE
INDICATOR ACTIVITY						
HEARINGS		1,192	2,232	87.20%	2,344	5.00%
NON-HEARINGS*		N/A	11,916	N/A	12,512	5.00%
CIVIL COMPLAINTS FILED		33,312	27,384	-17.08%	28,753	5.00%
PARKING COMPLAINTS		28,632	23,478	-18.00%	24,652	5.00%
DEFAULTS		N/A	6,846	N/A	7,188	5.00%
*ARRAIGNMENTS, DEFAULTS AND OTHER RETURNS						
MAIL RECEIVED**		N/A	9,403	N/A	9,873	5.00%
CORRESPONDENCE**		N/A	2,352	N/A	2,470	5.00%
TELEPHONE CALLS**		N/A	20,247	N/A	21,259	5.00%
FRONT COUNTER**		N/A	23,787	N/A	24,976	5.00%
**THESE EVENTS WERE NOT TRACKED AND REPORTED PRIOR TO FY 94/95.						
HOWEVER THESE ACTIVITIES TAKE 3 FTE'S TO COMPLETE						
BACKLOG: (FILES TO BE AUDITED): APPROXIMATELY 70,000 CASE FILES/COMPLAINTS						

## **ATTACHMENT # 5**

### **STAFF SUMMARY - ADDITIONAL APPROPRIATIONS**

TEMPE MUNICIPAL COURT

To: Mayor & City Council  
cc: City Manager

Agenda Item Number\_\_  
Meeting Date: March 16, 1995

SUBJECT: REQUEST FOR ADDITIONAL APPROPRIATIONS

PREPARED BY: JOHN GRECO, COURT ADMINISTRATOR

REVIEWED BY: LOURAINÉ. C. ARKFELD, PRESIDING JUDGE  
PATRICK FLYNN, MANAGEMENT SERVICES DIRECTOR

Document Name: Supporting Documents: (yes)

BRIEF: INCREASED APPROPRIATIONS FOR COURT

COMMENTS: COURT ADMINISTRATION (0501-02) Request approval to provide increased appropriations for the Tempe Municipal Court.

SUMMARY: HISTORY AND BACKGROUND

The Tempe Municipal Court was seized by the Arizona Supreme Court on February 4, 1994 due to mismanagement and alleged criminal activity. In March 1994, the Court proposed and Mayor/Council approved a reorganized Court plan and funding at approximately \$1.8 million based on the needs identified at that time. Subsequent events and additional needs were identified in the State of the Court message provided to Mayor and Council, dated January 27, 1995. This request is based on information provided in that message.

In order to continue to correct past deficiencies identified by the Supreme Court Administrative Office of the Court, the City Organizational Review Team, Arthur Andersen Audits, and City and Court Staff, and in order to continue to operate the Court on a daily basis for the remainder of the current fiscal year (94/95), the Court has identified an additional \$269,092 in appropriation needs in the Court budget for the current fiscal year, plus an additional \$16,000 in appropriation needs in the Police Department budget.

The reasons which necessitate this request run the full gamut of the Court operation including supplies, services, salaries, printing costs, books, duplicating, copy costs, and training as well as an additional bailiff position needed in the Civil Division at this time. The attached Exhibit A provides a schedule of the current budget, estimated expenditures through the end of the fiscal year, and the reasons for the added needs. The unacceptable operation of the Court described in all of the audits did not fully address the reality of the complete rebuilding process. In addition, we have seen a significant increase in our Court proceedings and workload. Adherence to the Rules of Court, additional Supreme Court requirements, and simply good business practices have resulted in far more activity and effort than was anticipated in March, 1994 when funding needs were outlined. The appropriation needs identified will allow the Court to continue to correct identified deficiencies this fiscal year and begin to stabilize operations next fiscal year.

The \$16,000 in appropriation needs identified for the Police Department are for printing complaint forms. The Court formerly printed these forms but was directed by the Supreme Court to stop this activity due to a conflict of interest, i.e., the Police arresting citizens using Court forms. Therefore this responsibility was transferred to the Police Department but without associated funding. Approval of the above requests are recommended.

#### **RECOMMENDATION**

That the City Council approve \$269,092 in additional appropriation needs for the Court and another \$16,000 in appropriation needs for the Police Department, all to be funded from increased City revenue for the current 1994/1995 fiscal year.

Moreover, as part of this recommendation and monies requested, an additional bailiff position be approved effective March, 1995 to service the Civil Division of the Court.

#### **MANAGEMENT SERVICES FISCAL NOTE**

With the increased Court activity has come an increase in associated City revenue. The current Court budget for revenue amounts of \$1,763,400. We expect to realize revenue in the \$2.3 to \$2.4 million range this fiscal year or a \$500,000-\$600,000 increase over the budget. We therefore recommend the total \$285,092 additional appropriation request be funded from increased City revenue.

Attachment

**ATTACHMENT # 6**  
**COURT BUDGET - CURRENT**

## BUDGET REPORT BY ORG/ACCOUNT/ EXPENDITURES

## COURT BUDGET

1410 ADMIN/JUDICIAL DIVISION	94/95	94/95	95/96
	BUDGET	REVISED	BUDGET
6010 SALARIES	\$310,972.00	\$377,341.00	\$496,965.00
6011 WAGES	\$0.00	\$67,131.00	\$0.00
6012 OVERTIME	\$2,604.00	\$4,000.00	\$4,008.00
6013 VACATION PAY	\$0.00	\$0.00	\$0.00
6014 SICK PAY	\$0.00	\$0.00	\$0.00
6015 HOLIDAY PAY	\$0.00	\$0.00	\$0.00
<b>TOTAL</b>	<b>\$313,576.00</b>	<b>\$448,472.00</b>	<b>\$500,973.00</b>
6120 FICA TAXES	\$29,605.00	\$34,308.00	\$38,324.00
6121 ARIZONA STATE RETIREMENT	\$13,932.00	\$16,145.00	\$19,788.00
6123 EMPLOYEE HEALTH INSURANCE	\$28,331.00	\$28,105.00	\$37,908.00
6127 MEDIFLEX REIMBURSEMENT	\$1,995.00	\$1,995.00	\$1,995.00
6129 CASH BONUS AWARD	\$0.00	\$0.00	\$0.00
6141 VEHICLE ALLOWANCE	\$3,900.00	\$6,175.00	\$7,800.00
<b>TOTAL</b>	<b>\$77,763.00</b>	<b>\$86,728.00</b>	<b>\$105,815.00</b>
6201 GENERAL OFFICE SUPPLIES	\$20,000.00	\$26,000.00	\$3,000.00
6305 CLOTHING	\$300.00	\$1,200.00	\$600.00
6351 MINOR EQUIPMENT	\$2,000.00	\$3,500.00	\$3,500.00
6370 PRINTING & COPIER SUPPLIES	\$1,500.00	\$1,500.00	\$500.00
6416 COMM PARTS-TELEPHONE	\$0.00	\$1,456.00	\$0.00
6505 BOOKS & PUBLICATIONS	\$1,800.00	\$2,200.00	\$2,300.00
6513 FIRST AID SUPPLIES	\$250.00	\$250.00	\$250.00
6514 AWARDS & DECORATIONS	\$500.00	\$250.00	\$500.00
6599 MISCELLANEOUS SUPPLIES	\$1,500.00	\$1,300.00	\$1,500.00
<b>TOTAL</b>	<b>\$27,850.00</b>	<b>\$37,656.00</b>	<b>\$12,150.00</b>



## BUDGET REPORT BY ORG/ACCOUNT/ EXPENDITURES

1410	ADMIN DIVISION	94/95 BUDGET	94/95 REVISED	95/96 BUDGET		
6656	CONSULTING FEES	\$0.00	\$0.00	\$0.00		
6665	JURY FEES	\$29,500.00	\$19,400.00	\$0.00		
6668	LEGAL FEES-PRO TEMS	\$94,000.00	\$45,580.00	\$59,684.00		
6669	COLLECTION FEES	\$3,000.00	\$6,000.00	\$0.00		
6672	CONTRACTED SERVICES	\$54,450.00	\$119,120.00	\$82,500.00		
6675	SOFTWARE PURCHASES	\$0.00	\$2,500.00	\$0.00		
6693	LAUNDRY	\$100.00	\$150.00	\$200.00		
6702	TELEPHONE	\$0.00	\$18.00	\$0.00		
6704	POSTAGE	\$0.00	\$75.00	\$100.00		
6716	MEMBERSHIP & SUBSCRIPTIONS	\$1,300.00	\$2,400.00	\$2,795.00		
6753	OUTSIDE PRINTING/FORMS	\$18,000.00	\$21,000.00	\$4,000.00		
6755	DUPLICATING	\$2,500.00	\$2,500.00	\$3,000.00		
6856	EQUIP & MACHINE REPAIR	\$4,500.00	\$3,150.00	\$1,000.00		
6906	EQUIP & MACHINE RENTAL	\$10,000.00	\$9,800.00	\$0.00		
6990	LICENSE(NOTARY FEES)		\$0.00	\$360.00		
	<b>TOTAL</b>	<b>\$217,350.00</b>	<b>\$231,693.00</b>	<b>\$153,639.00</b>		
7401	TRAINING & SEMINARS	\$13,500.00	\$17,393.00	\$22,500.00		
7402	EMPLOYEE MILEAGE	\$2,000.00	\$0.00	\$500.00		
7403	TRAVEL EXPENSE	\$2,000.00	\$0.00	\$500.00		
7404	LOCAL MEETINGS	\$750.00	\$2,000.00	\$1,000.00		
	<b>TOTAL</b>	<b>\$18,250.00</b>	<b>\$19,393.00</b>	<b>\$24,500.00</b>		
7506	OFFICE EQUIPMENT	\$15,500.00	\$15,500.00	\$0.00		
7511	OTHER EQUIPMENT	\$14,200.00	\$5,355.00	\$0.00		
7512	PHOTO, VIDEO & AUDIO EQUIP	\$0.00	\$10,092.00	\$0.00		
7518	COMPUTER EQUIPMENT	\$21,000.00	\$21,000.00	\$0.00		
	<b>TOTAL</b>	<b>\$50,700.00</b>	<b>\$51,947.00</b>	<b>\$0.00</b>		
8301	DATA PROCESSING	\$319,757.00	\$319,757.00	\$0.00		
8305	RADIO REPAIR COSTS	\$0.00	\$869.00	\$0.00		
8307	COMMUNICATION	\$56,836.00	\$56,836.00	\$0.00		
	<b>TOTAL</b>	<b>\$376,593.00</b>	<b>\$377,462.00</b>	<b>\$0.00</b>		
	<b>GRAND TOTAL</b>	<b>\$1,082,082.00</b>	<b>\$1,253,351.00</b>	<b>\$797,077.00</b>		



## BUDGET REPORT BY ORG/ACCOUNT/ EXPENDITURES

ACCOUNT 1411	94/95 BUDGET	94/95 REVISED	95/96 BUDGET		
6656 CONSULTING FEES	\$0.00	\$0.00	\$18,500.00		
6665 JURY FEES	\$0.00	\$0.00	\$27,500.00		
6668 LEGAL FEES-PRO TEMS	\$0.00	\$0.00	\$0.00		
6669 COLLECTION FEES	\$0.00	\$0.00	\$0.00		
6672 CONTRACTED SERVICES	\$0.00	\$0.00	\$6,975.00		
6693 LAUNDRY	\$0.00	\$0.00	\$0.00		
6704 POSTAGE	\$0.00	\$0.00	\$0.00		
6716 MEMBERSHIP & SUBSCRIPTIONS	\$0.00	\$0.00	\$0.00		
6753 OUTSIDE PRINTING/FORMS	\$0.00	\$0.00	\$6,000.00		
6755 DUPLICATING	\$0.00	\$0.00	\$0.00		
6856 EQUIP & MACHINER REPAIR	\$0.00	\$0.00	\$3,500.00		
6906 EQUIP & MACHINE RENTAL	\$0.00	\$0.00	\$5,400.00		
<b>TOTAL</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$67,875.00</b>		
7401 TRAINING & SEMINARS	\$0.00	\$0.00	\$0.00		
7402 EMPLOYEE MILEAGE	\$0.00	\$0.00	\$0.00		
7403 TRAVEL EXPENSE	\$0.00	\$0.00	\$0.00		
7404 LOCAL MEETINGS	\$0.00	\$0.00	\$0.00		
<b>TOTAL</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>		
7506 OFFICE EQUIPMENT	\$0.00	\$0.00	\$0.00		
7511 OTHER EQUIPMENT	\$0.00	\$0.00	\$0.00		
7518 COMPUTER EQUIPMENT	\$0.00	\$0.00	\$0.00		
<b>TOTAL</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>		
8301 DATA PROCESSING	\$0.00	\$0.00	\$0.00		
8307 COMMUNICATION	\$0.00	\$0.00	\$0.00		
<b>GRAND TOTAL</b>	<b>\$398,614.00</b>	<b>\$376,061.00</b>	<b>\$440,723.00</b>		

1/30/95 10:16 AM


1/30/95 10:16 AM

## BUDGET REPORT BY ORG/ACCOUNT/ EXPENDITURES

1412	CIVIL DIVISION	94/95 BUDGET	94/95 REVISED	95/96 BUDGET			
6656	CONSULTING FEES	\$0.00	\$0.00	\$1,500.00			
6665	JURY FEES	\$0.00	\$0.00	\$0.00			
6668	LEGAL FEES-PRO TEMS	\$0.00	\$0.00	\$0.00			
6669	COLLECTION FEES	\$0.00	\$0.00	\$7,500.00			
6672	CONTRACTED SERVICES	\$0.00	\$0.00	\$3,600.00			
6693	LAUNDRY	\$0.00	\$0.00	\$0.00			
6704	POSTAGE	\$0.00	\$0.00	\$0.00			
6716	MEMBERSHIP & SUBSCRIPTIONS	\$0.00	\$0.00	\$0.00			
6753	OUTSIDE PRINTING/FORMS	\$0.00	\$0.00	\$6,000.00			
6755	DUPLICATING	\$0.00	\$0.00	\$0.00			
6856	EQUIP & MACHINER REPAIR	\$0.00	\$0.00	\$3,500.00			
6902	OFFICE RENTAL	\$0.00	\$0.00	\$0.00			
6906	EQUIP & MACHINE RENTAL	\$0.00	\$0.00	\$5,400.00			
	<b>TOTAL</b>	\$0.00	\$0.00	\$27,500.00			
7401	TRAINING & SEMINARS	\$0.00	\$0.00	\$0.00			
7402	EMPLOYEE MILEAGE	\$0.00	\$0.00	\$0.00			
7403	TRAVEL EXPENSE	\$0.00	\$0.00	\$0.00			
7404	LOCAL MEETINGS	\$0.00	\$0.00	\$0.00			
	<b>TOTAL</b>	\$0.00	\$0.00	\$0.00			
7506	OFFICE EQUIPMENT	\$0.00	\$0.00	\$0.00			
7511	OTHER EQUIPMENT	\$0.00	\$0.00	\$0.00			
7518	COMPUTER EQUIPMENT	\$0.00	\$0.00	\$0.00			
	<b>TOTAL</b>	\$0.00	\$0.00	\$0.00			
8301	DATA PROCESSING	\$0.00	\$0.00	\$0.00			
8307	COMMUNICATION	\$0.00	\$0.00	\$0.00			
	<b>TOTAL</b>	\$0.00	\$0.00	\$0.00			
		\$305,085.00	\$413,430.00	\$358,845.00			

**MEMORANDUM**

**TO: JOHN W. GRECO**  
**FROM: BARBARA A. LASATER**  
**DATE: APRIL 10, 1995**  
**SUBJECT: REVISED FY 94/95 REVENUE PROJECTIONS**



I have provided a chart that reflects an analysis of the revised FY 94/95 revenue projections and the revenues that were receipted up to March 31, 1995. I have also included a column that shows the planned revenues as of March 31, 1995 as compared to our revised projections.

In summary, the analysis informs us of the following:

1. The revised FY 94/95 revenue projections are: **\$2,334,309**
2. Based on the revised revenues, we should have receipted: **\$1,750,735**
3. Revenues receipted as of March 31, 1995: **\$1,804,232**
4. Revenues receipted vs. projected revenues: **\$ 53,497**

As you can see, as of March 31, 1995, we are doing very well; while a few of the accounts are not producing revenues as we had projected, the overall projection has not only been met, but exceeded by \$53,497!!

copy: Maurice Evans  
Jacque Frusetta  
Tad Kern  
Fran Lehrer  
Cheryl Summerlin  
Edith Ross

**ATTACHMENT**

**REVISED FY 94/95 REVENUE PROJECTIONS VS. REVENUES RECEIPTED  
AS OF  
MARCH 31, 1995**

ACCOUNT:	REVISED REVENUE PROJECTIONS:	REVENUES RECEIPTED AS OF 3/31/95:	PLANNED REVENUES TO DATE:	VARIANCE:
4601-PARKING FINES	234,800	176,387	176,100	287
4602-TRAFFIC FINES	1,270,086	945,591	952,565	-6,974
4603-CRIMINAL FINES	240,069	225,701	180,052	45,649
4604-PD REIMBURSEMENT	6,438	6,315	4,829	1,486
4607-CERTIFIED COPY FEES	39,160	20,847	29,370	-8,523
4608-DOMESTIC VIOLENCE FEES	3,210	2,630	2,408	222
4609-ANIMAL CONTROL CITATIONS	1,820	1,654	1,365	289
*4610-CRIMINAL FINES-FAD	0	1,605	0	1,605
4612-DDS COURT DIVERSION FEE	364,350	267,635	273,263	-5,628
*4620-WARRANT FEES	0	13,866	0	13,866
4621-DEFAULT FEES	126,424	102,532	94,818	7,714
4622-JCEF FEES	23,478	17,242	17,609	-367
4624-BOOT FEES	24,474	22,227	18,356	3,871
<b>TOTALS:</b>	<b>2,334,309</b>	<b>1,804,232</b>	<b>1,750,735</b>	<b>53,497</b>

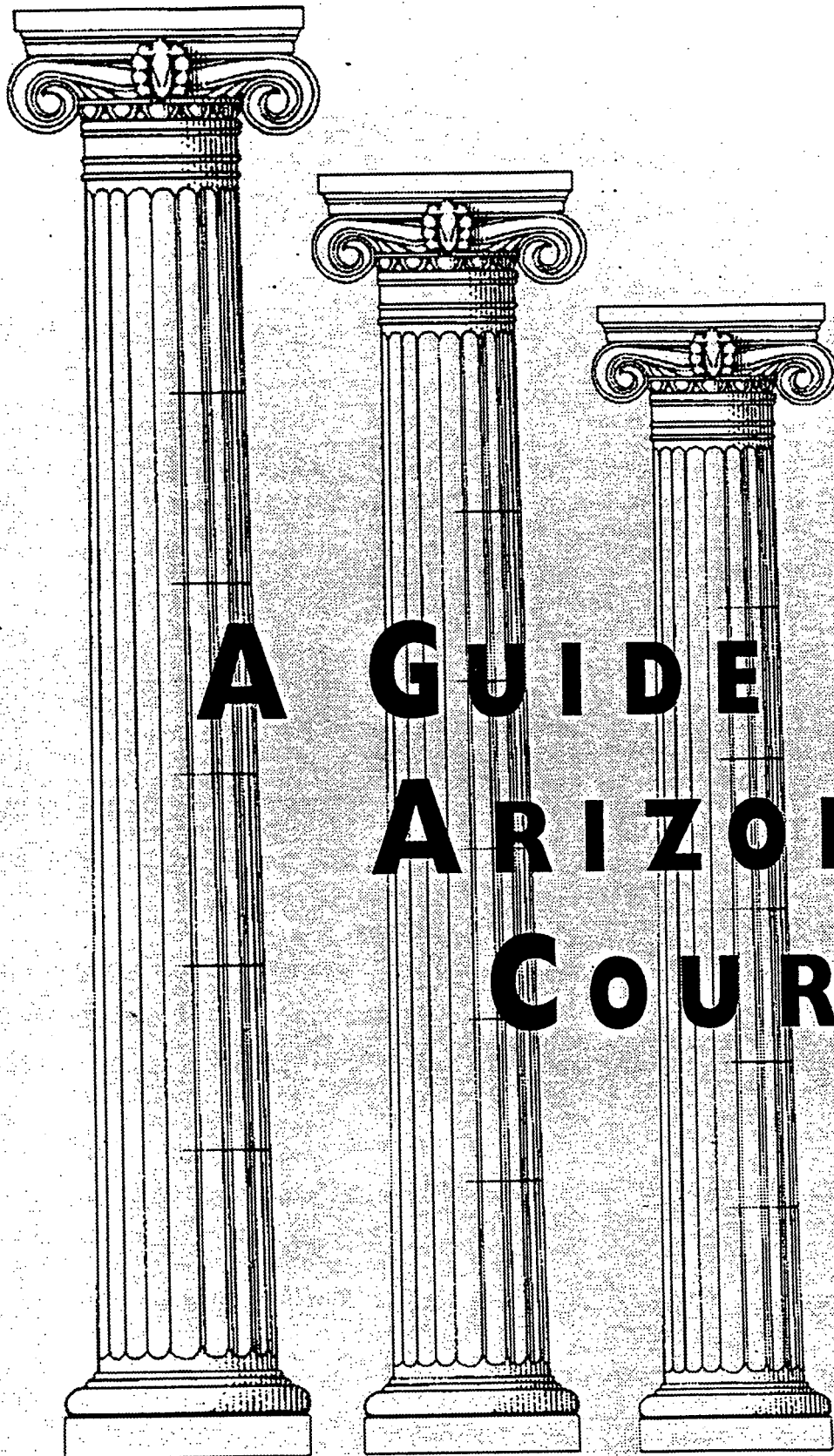
\*INVALID ACCOUNT-ALL COLLECTED REVENUES TRANSFERRED TO ACCOUNT 4603-CRIMINAL FINES.

## **APPENDICES**



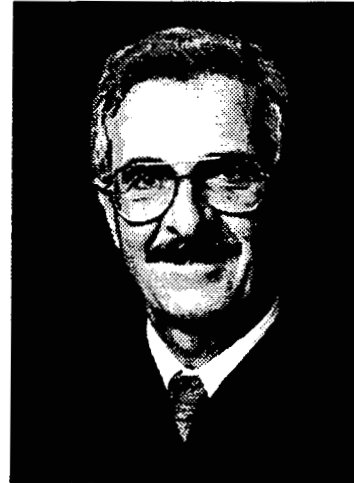
## **APPENDIX "A"**

### **"A GUIDE TO THE ARIZONA COURTS"**

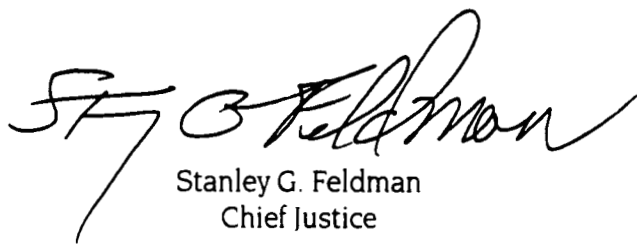


# *Welcome to the Arizona Court System*

We hope this booklet will help you learn more about the Arizona judicial system and the people who work for the courts. It explains how judges are selected, how a court case is processed and how the Arizona judicial system works. It provides an overview of the history, different levels and special functions of the courts.



You should learn as much as you can about our state's court system. Sooner or later, most of us become involved with the courts. This booklet offers you a chance to understand the courts and the vital role they have in the lives of Arizona citizens.

  
Stanley G. Feldman  
Chief Justice



Arizona Supreme Court  
Administrative Office of the Courts

.....

## A GUIDE TO THE ARIZONA COURTS

*The Federal Courts and Tribal Courts are not part of the state court system, and this guide does not address them.*

*This guide is especially helpful in preparing students for a civics or government class, or for a visit to court. A glossary at the back defines the legal terms used in the text.*

*This guide is not intended to offer legal advice or assistance. Remember that laws and procedures can change unexpectedly. Check with a local court for current, specific information about resolving a legal problem.*

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## *Arizona Courts: The Historical Perspective*

**Dec. 9, 1910** - Arizona Constitutional Convention completed the Arizona Constitution and sent it to the people for ratification. Article VI of the constitution created the judicial system.

**Feb. 14, 1912** - President Taft declared statehood for Arizona.

**1912** - The Arizona Legislature established superior, juvenile and justice of the peace courts.

**1913** - The Arizona Legislature established police (municipal) courts for each of the state's incorporated cities and towns.

**1960** - Voters Approved the Modern Courts Amendment, which:

- ☞ Amended Article VI;
- ☞ Gave the Supreme Court administrative supervision over all courts of the state;
- ☞ Increased the number of Supreme Court justices from three to five;
- ☞ Gave the Supreme Court authority to make rules governing all procedural matters in any court; and
- ☞ Authorized creation of the Court of Appeals.

*Article VI also requires:*

- ☞ That justices and judges not practice law or hold any other public office or employment during their term of office;
- ☞ That they hold no office in any political party, nor campaign in any election other than their own; and
- ☞ That Supreme Court justices, Court of Appeals judges and Superior Court judges must retire at age 70.

**1965** - Legislation established the Court of Appeals.

**1970** - More Amendments Added:

- ☞ Established the Commission on

Judicial Qualifications (now called Commission on Judicial Conduct). The Commission investigates complaints against any judge in the state.

**1974** - Voters Approved:

☞ Merit selection and retention election of justices for the Supreme Court and judges for the Court of Appeals. This system also applies to judges for the Superior Court in counties with 150,000 or more people (at present, Maricopa and Pima Counties). In 1992, voters changed this population cutoff to 250,000, still limiting it to the two largest-populated counties. The amendment requires the governor to appoint these judges from a list submitted by judicial nominating commissions. All other counties currently elect their judges, but are authorized to use the merit selection process if approved by a majority of the county voters.

**1992** - Changes to Merit Selection:

☞ Proposition 109 was an amendment to the constitution which requires public input and the establishment of a process to review judges' performance. Judges' job performance is reviewed, and reports about their performance are distributed to the public prior to each general election. The performance evaluation process includes surveys from jurors, witnesses, litigants, administrative staff and attorneys who have interacted with the judge in a judicial setting. The public provides input through written comment and public hearings.

In addition, public committees screen and recommend candidates to the governor for membership on three commissions which nominate judges to fill

vacancies on the bench. The number of persons involved in the merit selection process increased from 21 to 127 committee and commission members. One statewide committee with nine non-attorney members serves the

Appellate Nominating Commission, and 10 committees of seven members (five for each county) serve Pima County's and Maricopa County's Judicial Nominating Commissions.

### ***Today's Court System has Three Levels***

1. Limited Jurisdiction Courts are Justice of the Peace and Municipal (or City) Courts. These courts have jurisdiction over a limited variety of cases. They are nonrecord courts, meaning that permanent records of court proceedings are not required. However, some courts do make a record of proceedings.

2. The General Jurisdiction Court is the Arizona Superior Court, a statewide trial court. This court hears the widest variety of cases, and keeps permanent records of court proceedings.

3. The Appellate Courts have jurisdiction to review trials and decisions appealed to

them. The Court of Appeals hears most appeals from Superior Court. The exceptions are death penalty appeals and some cases involving elected officials and disputes between counties, which go directly to the Supreme Court.

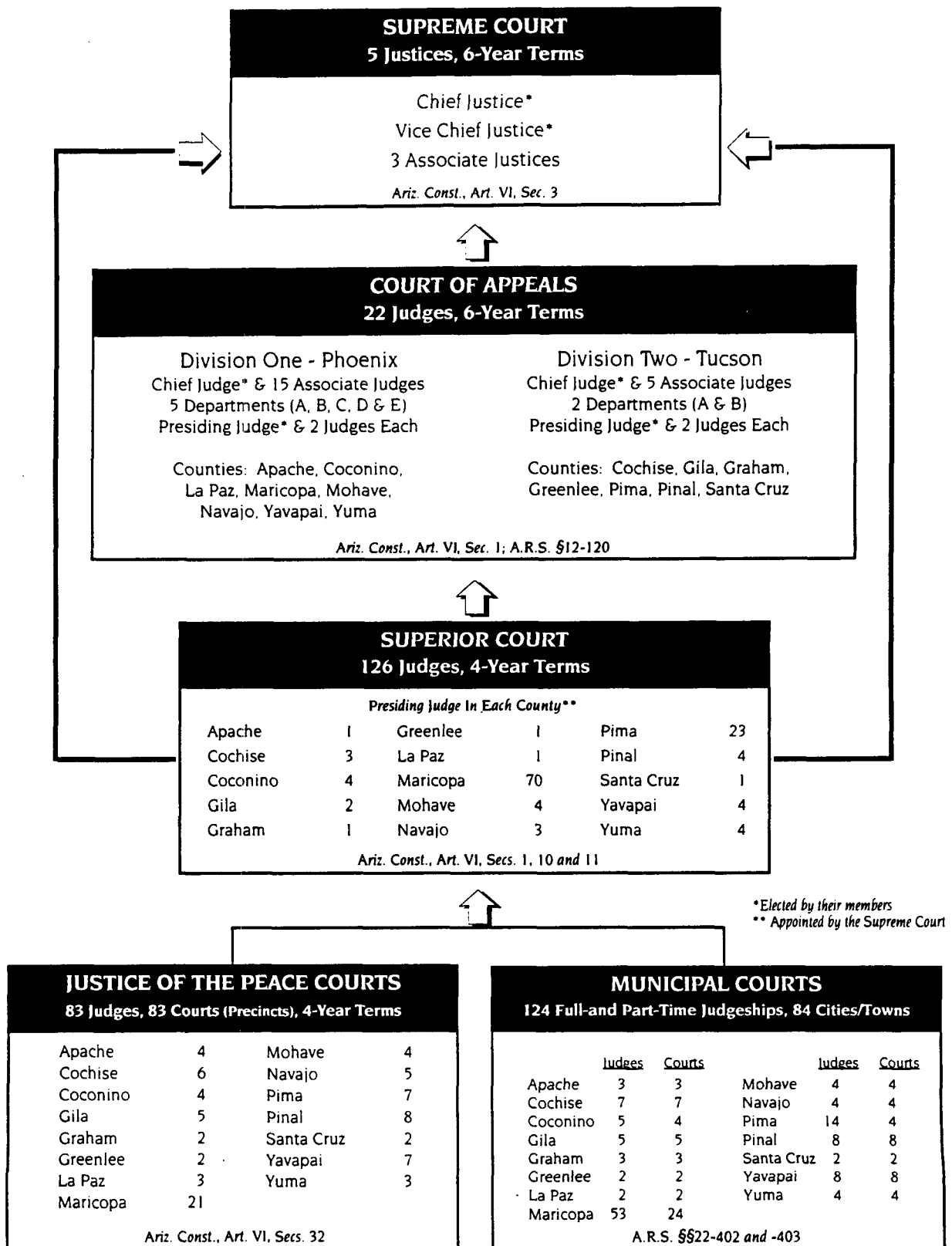
To appeal a decision from the Court of Appeals, the appellant must file a Petition for Review requesting a Supreme Court hearing. Unlike the Court of Appeals, the Supreme Court is not required to hear every appeal. The Supreme Court judges, known as "justices," evaluate the case and decide whether they will review it.

### ***How the Courts are Organized***

The chart on the next page will help the reader understand the organization of Arizona's judicial system. The connecting lines from the lower courts upward indicate the normal route of appeal.

For example, an appeal of a decision from a Justice of the Peace Court is heard in Superior Court.

# ARIZONA JUDICIARY ORGANIZATIONAL CHART





## Limited Jurisdiction Courts

### MUNICIPAL COURTS

Many incorporated cities or towns have a Municipal Court, also known as a City Court or Magistrate Court. Municipal Courts have criminal jurisdiction over misdemeanor crimes and petty offenses committed in their city or town. They share jurisdiction with Justice of the Peace Courts over violations of state law committed within their city or town limits.

Municipal Court judges (magistrates) hear misdemeanor criminal traffic cases such as driving under the influence of alcohol, hit-and-run and reckless driving where no serious injuries occur. They hear civil traffic cases, violations of city ordinances and codes and issue orders of protection and injunctions prohibiting harassment. They can also issue search warrants and handle domestic violence and harassment cases. They DO NOT hear civil lawsuits between citizens.

City charters or ordinances establish the qualifications of these judges, who may not have to be lawyers to serve as judges. City or town councils appoint their judges except in Yuma, where municipal court judges are elected. Judges serve terms set by the city or town council; their terms must be at least two years.

Judges have court clerks who provide clerical assistance and schedule cases. In larger cities, the judges may also have court administrators.

### JUSTICE OF THE PEACE COURTS







Each county's board of supervisors sets the geographical boundaries, known as precincts, of that county's Justice of the Peace courts. Generally, Justice of the Peace precincts are larger than city or town limits and typically incorporate an entire city or town, and pieces of other communities as well. Although these geographical boundaries can be changed,

the precincts cannot be abolished until the four-year term of the current justice of the peace expires.

---

### JUSTICE OF THE PEACE QUALIFICATIONS

*A Justice of the Peace:*

-  *Is elected to a four-year term.*
  -  *Must be at least 18 years old.*
  -  *Must be an Arizona resident.*
  -  *Must be a qualified voter in the precinct in which duties of office will be performed.*
  -  *Must read and write English.*
  -  *Need not be an attorney.*
- 

Justice of the Peace Courts hear traffic cases and certain civil and criminal cases. They can issue search warrants and handle domestic violence and harassment cases. Their civil jurisdiction is limited to cases involving claims of \$5,000 or less.

Justice courts share jurisdiction with the Superior Court in cases of landlord/tenant disputes where the rental value does not exceed \$1,000/month and damages are \$5,000 or less. They can hear matters regarding possession of, but not title to, real property.

The Superior Court presiding judge in each county appoints special hearing officers to decide small claims cases less than \$1,500. Small claims cases are decided before the judge or hearing officer. No attorneys are allowed to represent clients in these cases, and no appeals are permitted. Defendants who want to use an attorney may move the case from the small claims division to the civil division of the justice court.

When conducting preliminary hearings on felonies, Justice of the Peace Court judges

may require defendants to answer criminal charges in Superior Court. They also may dismiss charges if there is no probable cause to believe the defendant is guilty.

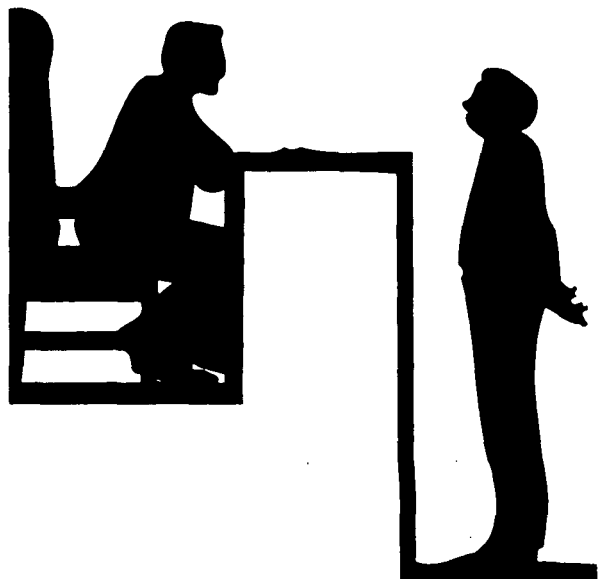
Justice of the Peace Courts have criminal jurisdiction over:

1. Petty offenses and misdemeanors;
2. Assault or battery—less serious offenses not committed on a public officer while performing his or her duties;
3. Breaches of peace and committing a willful injury to property;
4. Misdemeanors and criminal offenses punishable by fines not more than \$2,500, or imprisonment in county jail, not more than six months, or both fine and imprisonment; and
5. Felonies, for the purpose of issuing warrants and conducting preliminary hearings.

#### *Court Personnel*

Each justice of the peace precinct has an elected constable. The constable's duties are to "execute, serve and return all processes and legal documents as directed by the court." Some statutes relating to sheriffs also govern the powers, duties and liabilities of constables.

The justice of the peace usually has one or more court clerks to provide clerical assistance and maintain court records. Additionally, Justice of the Peace Courts in some busy urban precincts have a court administrator.



## General Jurisdiction Court

The Superior Court is the state's general jurisdiction court. Each county has at least one superior court judge. In counties with more than one superior court judge, the judges operate in numbered divisions. Superior Court judges may hear all types of cases except small claims, minor offenses, or violations of city codes and ordinances.

### THE SUPERIOR COURT

Article VI, Section 14 of the Arizona Constitution provides the Superior Court with jurisdiction over:

- ▣ Cases and proceedings in which exclusive jurisdiction is not vested by law in another court.
- ▣ Equity cases that involve title to or possession of real property or the legality of any tax, assessment, toll or municipal ordinance.
- ▣ Other cases in which the value of property in question is more than \$5,000, exclusive of interest and costs.
- ▣ Criminal cases amounting to a felony, and misdemeanor cases not otherwise provided for by law;
- ▣ Forcible entry and detainer actions (evictions of renters).
- ▣ Proceedings in insolvency (however, bankruptcy is handled in federal court).
- ▣ Actions to prevent or stop nuisances.
- ▣ Matters of probate (wills, estates).
- ▣ Dissolution or annulment of marriages (divorces).
- ▣ Naturalization and the issuance of appropriate documents for these events.
- ▣ Special cases and proceedings not otherwise provided for, and such other jurisdiction as may be provided by law.

### Appellate Court Role of the Superior Court

The Superior Court acts as an appellate court for Justice of the Peace and Municipal Courts.

### SUPERIOR COURT JUDGE QUALIFICATIONS

*Superior court judges obtain their authority from Article VI of the Arizona Constitution.*

*In the Superior Court system:*

- ⚖ Each court is entitled to one Superior Court judge and one additional judge for every 30,000 county residents or majority fraction thereof.
- ⚖ Superior Court judges serve four-year terms. There are now more than 100 Arizona Superior Court judges, most in Maricopa and Pima counties.

*A Superior Court judge must be:*

- ⚖ At least 30 years old.
- ⚖ Of good moral character.
- ⚖ Admitted to the practice of law in Arizona and a resident of Arizona for the five years immediately before taking office.

### Probation Supervision

The Superior Court probation department supervises adults and juveniles on probation.

### Court Personnel

The Arizona Supreme Court designates a presiding judge for counties with two or more Superior Court judges. In single-judge counties, that judge holds the administrative authority.

A 1971 state law (A.R.S. §12-141) authorized the Chief Justice of the Supreme Court to appoint judges pro tempore (temporary judges) for six-month terms to assist with caseloads. These judges usually work part-time. A judge pro tempore must be at least 30 years of age, of good moral character, a resident of Arizona and admitted to the practice of law in Arizona for not less than five years immediately preceding the appointment. A judge pro tempore may be appointed to serve in the county where he or she lives, or another county.

Each county has a Superior Court clerk elected to a four-year term. The clerk maintains court case files; certifies documents; collects fees; issues summonses, subpoenas, passports and marriage licenses and performs other duties required by law. Some counties offer these services in more than one location.

In some counties, the clerk also serves as the jury commissioner. However, in larger counties, a separate jury commissioner may be appointed.

Larger Arizona counties also have court administrators to assist the presiding judge with caseload management, records management, financial management and other administrative projects.

A county's Superior Court presiding judge may appoint court commissioners to perform limited judicial duties if the county has at least three judges. These commissioners hear cases where an uncontested charge has been entered against someone. They may also conduct the initial appearance of a defendant charged with a crime.

## **JUVENILE COURT**

Counties with more than one Superior Court judge also have a special juvenile court. One or more Superior Court judges are assigned to hear all juvenile cases involving delinquency, incorrigibility and dependency. Juvenile traffic cases may be heard by a court other than the juvenile court (if the presiding juvenile court judge allows it).

## **ARIZONA TAX COURT**

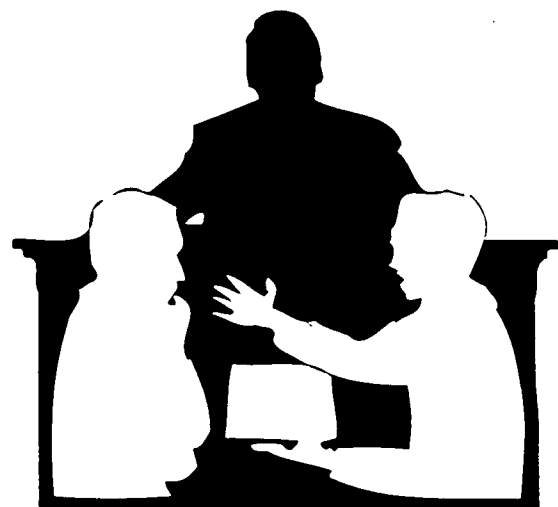
The Arizona Tax Court, established in 1988, has exclusive jurisdiction over all Arizona tax cases. This includes imposing, assessing or collecting a tax, and all questions of law and fact related to tax disputes. It is a department of the Superior Court in Maricopa County.

A taxpayer may choose to use the small claims division of the tax court for certain cases. The small claims division hears disputes concerning the valuation or classifica-

tion of "class five" property if the cash value of all real and personal property does not exceed \$100,000. In addition, the small claims division judges hear all tax cases, other than class five properties, in which the amount of taxes, interest at the time of assessment, and penalties in dispute do not exceed \$5,000. There is no right to appeal the decision of the tax court's small claims division.

## **Arbitration**

Arizona statutes require arbitration in most civil cases not exceeding \$50,000. These cases are heard by one to three arbitrators who are attorneys appointed by the court. Hearings are conducted in an informal setting and manner that saves money and reduces the number of cases in trial courts. Arbitrators act as judges. They listen to both sides and make decisions based on the law. Arbitration decisions can be appealed, but usually are not. When a decision is appealed, the case is heard from the start (trial de novo) in Superior Court.



## Appellate Courts

Arizona has two appellate courts: The Court of Appeals is the intermediate appellate court; the Supreme Court is the court of last resort.

### COURT OF APPEALS

The Court of Appeals was established in 1965 as the first level of appeal up from Superior Court. It has two divisions: Division One in Phoenix (16 judges) and Division Two in Tucson (six judges).

#### *The Court of Appeals:*

- ⚖ Hears and decides cases in three-judge panels.
- ⚖ Has jurisdiction in all matters properly appealed from Superior Court.
- ⚖ Reviews all decisions properly appealed to it.

Division One of the Court of Appeals has statewide responsibility for appeals from the Industrial Commission, unemployment compensation rulings of the Department of Economic Security, and rulings by the Arizona Tax Court.

The appeals process is generally the same for both civil and criminal cases. (There are filing fees in civil cases, but not for criminal cases.)

### Court Personnel

Each division of the Court of Appeals has a clerk of the court and other support personnel. Their duties are outlined in A.R.S. §12-120.9. A Clerk of the Court of Appeals maintains official records and case files for the Court of Appeals and handles the administrative duties of the court.

### THE SUPREME COURT

The Supreme Court's primary judicial duties under Article VI, Sec. 5 of the Arizona Constitution, are to review appeals and to provide rules of procedure for all the courts in Arizona. It is the highest court in the state of Arizona and is often called the "court of last resort."

The Supreme Court has discretionary jurisdiction. Therefore, the court may refuse to review the findings of the lower court. Cases in which a trial judge has sentenced a defendant to death, however, automatically go to the Supreme Court for review.

### Supreme Court Justices

Five justices serve on the Supreme Court for a regular term of six years. One justice is selected by fellow justices to serve as Chief Justice for a five-year term. In addition to handling case work like the other justices, the Chief Justice oversees the administrative operations of all the courts in Arizona.

#### The Supreme Court:

- ☞ May choose to review a decision of the Court of Appeals when a party (the plaintiff or defendant in the original case) files a petition for review.
- ☞ Always hears the appeal when the Superior Court imposes a death sentence.
- ☞ Regulates activities of the State Bar of Arizona and oversees admission of new attorneys to the practice of law.

### COURT OF APPEALS JUDGE QUALIFICATIONS

*A Court of Appeals judge must be:*

- ⚖ At least 30 years old.
- ⚖ Of good moral character.
- ⚖ A resident of Arizona and admitted to the practice of law in Arizona for the five years immediately prior to taking office.

- ☞ Reviews charges of misconduct against attorneys, and has the authority to suspend or disbar them.
- ☞ Serves as the final decision-making body when disciplinary recommendations are filed against Arizona judges by the Commission on Judicial Conduct.

#### *The Court's Role in the Impeachment Process*

Impeachment is a political process designed to deal with public officials accused of committing high crimes, misdemeanors or misconduct in office. The person is charged, tried, and if convicted, removed from office.

The Chief Justice of the Supreme Court presides over Senate impeachment trials, but renders no decision as to the guilt or innocence of the public official on trial. Formal charges for an impeachable offense are initiated by a majority vote of the Arizona House of Representatives. Conviction for the impeachable offense requires a two-thirds vote in the Senate. Upon conviction, a public officer is removed from office.

The role of the Supreme Court in the impeachment process is set forth in Article VIII, Part 2, Section 1 of the Constitution of the State of Arizona.

#### *Court Personnel*

The Arizona Constitution authorizes the Supreme Court to appoint a Clerk of Court and assistants. According to A.R.S. §12-202, the clerk shall attend sessions of the court, issue legal paperwork, enter all court orders, judgments and decrees and keep other books of record and perform other duties as required by law or the court. The clerk's office maintains the court's official files and assists in scheduling matters for decisions and oral arguments. The clerk's office is also responsible for publishing and distributing the court's written opinions.

### SUPREME COURT JUSTICE QUALIFICATIONS

*A Supreme Court Justice:*

- ⚖ *Must be admitted to the practice of law in Arizona and be a resident of Arizona for the 10 years immediately before taking office.*
- ⚖ *May not practice law while a member of the judiciary.*
- ⚖ *May not hold any other political office or public employment.*
- ⚖ *May not hold office in any political party.*
- ⚖ *May not campaign, except for him/herself. Penalty: Forfeiture of office.*
- ⚖ *Must retire at age 70.*





# THE JUDICIAL PROCESS AT WORK

## *The 'Players' in a Trial Courtroom*

Key figures in a courtroom trial are the judge, court reporter (in Superior Court), courtroom clerk and bailiff. Other central people are the attorneys, plaintiff, defendant, witnesses and jurors.

The judge is the central figure in the courtroom and is generally seated higher than everyone else. The judge allows both sides the opportunity to present their version of the facts.

Also present are a court reporter (in Superior Court), a courtroom clerk and a bailiff. Each assists the judge with the trial. The court reporter records all proceedings in Superior Court. The courtroom clerk records selected activities for official case file records and is responsible for all case exhibits. The bailiff maintains order in the court and supervises the jury, if there is one.

Attorneys will often represent the plaintiff and defendant at a trial. As officers of the court, attorneys are expected to know and follow all court rules. Their role is to protect the rights of their client. Attorneys offer evidence and arguments to help the judge and the jury make a fair decision.

The judge oversees the trial and decides legal questions that arise. Cases tried in court are decided by either a judge or a jury. In most criminal cases and civil cases, either party may request a jury trial.

To ensure fair and consistent proceedings, all trials are conducted according to established rules of procedure and evidence.

## *Serving as a Juror*

Jurors are the heart of the judicial system in the United States. In all serious criminal cases, defendants are entitled to a trial by a jury of their peers.

The jury referred to above is a trial or "petit" jury; there also are "grand" juries. Each serves a specific role in the judicial system.

### **TRIAL OR PETIT JURIES**

Since 1980, names of prospective jurors have been obtained by random selection from lists of registered voters and licensed drivers who are 18 years of age and older. The Supreme Court may also designate other lists of residents from which jurors may be selected.

All U.S. citizens who are at least 18 years of age and are residents of the jurisdiction in

which they are summoned to serve are eligible for jury duty. Persons qualified to be jurors can be exempt from service only if they have been determined to be mentally incompetent or insane, or if they are a convicted felon whose civil rights have not been restored. There are no automatic excuses or exemptions from jury duty.

Prospective jurors may be called for service by a Justice of the Peace or Municipal Court or by the jury commissioner of the Superior Court. Once selected, a prospective juror is subject to being called to court for 120 days, although in some courts the period is shorter.

In Superior Court, a trial jury for a criminal case consists of 8-12 persons, depending on the severity of the possible sentence. A unanimous verdict is required.

For Superior Court civil cases, there are eight people on the jury; the agreement of six members is required to return a verdict.

In limited jurisdiction courts, there are six-member juries. Unanimous agreement is required for a verdict in criminal cases, and five of the six jurors must agree on a verdict in civil cases.

The law does accept verdicts when fewer jurors agree—if prior consent has been given by both the plaintiff and the defendant in a civil case. In a criminal case, the plaintiff, defendant and the court can determine the number of jurors they will require to be in agreement to return a verdict.

### COUNTY GRAND JURY

A grand jury is 12-16 citizens who have qualified for jury service in the county; they usually are subject to being called into session for a period of not more than 120 days.

A county grand jury has the responsibility to investigate possible public offenses, including "corrupt or willful misconduct in office by public officials." To begin a criminal case, the county attorney may present evidence to a grand jury and ask it to return a criminal indictment or "true bill," formally accusing someone of a crime.

An indictment means that at least nine members of the grand jury believe a crime has been committed and that there is enough evidence against the person to hold a trial.

### STATE GRAND JURY

The powers and duties of the state grand jury are similar to those of the county grand jury, except they extend statewide. Up to three grand juries can be assembled ("impaneled") simultaneously at the state level. The scope of the investigations of a state grand jury is specified by law. The Supreme Court makes rules that govern the procedures of grand juries.

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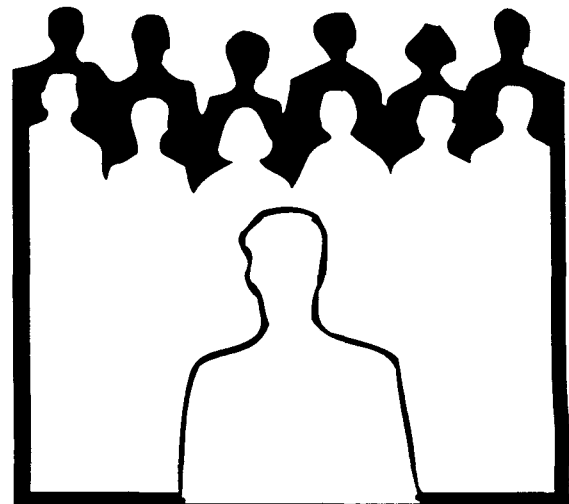
### TYPES OF JURIES

*The three types of juries are:*

- ⚖ Trial or Petit Jury.
- ⚖ County Grand Jury.
- ⚖ State Grand Jury.

*Each jury serves a specific role within the judicial system.*

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## How a Case Moves through the Court System

In this section, you will learn how cases work their way through the legal system. First, case processing in the limited jurisdiction courts is covered. The most explanation is devoted to Superior Court case processing although Superior Court procedures basically apply to limited jurisdiction courts. In the case outlines that follow, each party is represented by an attorney. However, this frequently is not the case, especially in limited jurisdiction courts. People may represent themselves in court without an attorney, as long as they follow court rules. They often are called "pro per" or "pro se" litigants.

on the charges and find the defendant guilty or not guilty.

### *Sentencing*

If the defendant is found guilty, the court imposes the appropriate punishment (sentence).

### *Appeals*

Appeals from decisions of limited jurisdiction courts go to Superior Court. Appeals may be heard as a new trial (trial de novo), or the Superior Court judge may review records of trial proceedings, if records have been kept. Decisions in small claims court cannot be appealed.

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### PLEASE NOTE:

*This **Guide to the Arizona Courts** is intended to give only a general overview of the Arizona court system and its procedures. Not all cases proceed as outlined here.*

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### CASE PROCESSING IN LIMITED JURISDICTION COURTS

Limited jurisdiction courts usually process criminal cases as follows:

#### *Initial Appearance*

First appearance in court by a defendant. The defendant is advised of the charges. Judge appoints an attorney if defendant cannot afford one.

#### *Arraignment*

Defendant appears in court to enter a plea of guilty or not guilty. (Note: Many limited jurisdiction courts combine the initial appearance and arraignment.)

#### *Trial*

If the defendant pleads not guilty, a trial is held. The judge, or at the defendant's request, a jury, can hear evidence

### SUPERIOR COURT CASE PROCESSING

The two major types of court cases are criminal and civil. Trials in both criminal and civil cases are generally conducted the same way.

After all the evidence has been presented and the judge has explained the law related to the case to a jury, the jurors decide the facts in the case and render a verdict. If there is no jury, the judge makes a decision in the case.

### CRIMINAL CASES

Criminal cases involve the commission of acts that are prohibited by law and are punishable by probation, fines, imprisonment—even death. The attorney representing the state, county or municipal government that formally accuses an individual of committing a crime is the prosecutor. The party charged with the crime is the defendant.

#### *Steps in a Criminal Case*

##### 1. Arrest.

A person is arrested by a law enforcement officer who either observes a crime or has a warrant for arrest when probable cause exists that a person committed a

crime. When a person is arrested, that person must be brought before a judge for an initial appearance within 24 hours of being arrested or must be released.

In some criminal cases, facts may be presented to a state or county grand jury to determine whether there is probable cause to believe the person under investigation is guilty of the offense. If the grand jury believes there is probable cause, the jurors will return an indictment ("true bill") formally accusing the person of the crime.

## 2. Initial Appearance

At the initial appearance, the judge determines the defendant's name and address, informs the defendant of the charges and of the right to remain silent and to have an attorney. The judge appoints an attorney if the defendant cannot afford one, and sets the conditions for release from jail.

## 3. Preliminary Hearing

If a preliminary hearing is held (usually by a justice of the peace), the judge hears evidence and testimony from witnesses called by the prosecuting attorney and the defendant's attorney. If the judge determines there is enough evidence to believe the defendant probably committed the crime, the defendant is held for trial in Superior Court, and an arraignment date is set.

## 4. Arraignment

At the arraignment, the defendant enters a plea of "guilty," "not guilty" or "no contest." If the defendant enters a "not guilty" plea, the judge will set a trial date. If the defendant enters a "guilty" plea or declares "no contest" to the charges, the judge will set a date to sentence the defendant for the crime.

## 5. Trial

### *Opening Statements*

The defendant has the right to a trial

either before a jury or a judge. When the court is ready for the trial to begin, opening statements are made by both sides. In a criminal case, the prosecuting attorney speaks first.

To begin, the attorney gives an overview of the facts to be presented. The opposing attorney may present the same type of opening comment or may reserve the opening statement until later in the trial when that side of the case begins. Either attorney may choose not to give an opening statement.

### *Witnesses*

The prosecuting attorney will begin the case by calling witnesses and asking them questions. This is "direct examination."

Witnesses in all trials take an oath or affirmation that what they say in court is true. All trial evidence, including testimony and physical evidence such as documents, weapons or articles of clothing, must be acceptable as defined by the Arizona Rules of Evidence before it can be admitted into evidence and shown to the jury. The judge decides what evidence and testimony is admissible under the rules.

In a criminal trial, the prosecuting attorney presents evidence and testimony of witnesses to try to prove the defendant committed the crime. The attorney for the defendant may present evidence and witnesses to show that the defendant did not commit the crime or to create a reasonable doubt as to the defendant's guilt. However, the defendant is considered innocent of the crime charged until proven guilty.

When the prosecution's side has completed its questioning of a witness, the defense is allowed to "cross-examine" the witness on any relevant matter.

After cross-examination, the attorney who originally called the witness may ask additional questions of the witness to clarify something touched on in the cross-

examination. This is "re-direct examination." The judge may allow an opportunity for the opposing attorney to "re-cross-examine."

When the plaintiff or prosecution has called all the witnesses for its side of the case and presented all its evidence, that side "rests" its case.

At this point, the defendant's attorney may ask the court to decide the case in the defendant's favor because the plaintiff or prosecuting attorney did not present sufficient evidence to prove the case against the defendant. This is called a "judgment of acquittal" in a criminal case.

If the judge agrees that there is not enough evidence to rule against the defendant, the judge rules in favor of the defendant, and the case ends.

If a judgment of acquittal is not requested, or if the request is denied, the defense may present evidence for its side of the case. The attorney for the defense often waits until this part of the trial to make an opening statement.

The defense may choose not to present evidence, as it is not required to do so. Remember, the defendant in a criminal case is not required to prove innocence, but the prosecution is required to prove the defendant's guilt beyond a reasonable doubt.

If the defense does present a case and call witnesses, the same rules and procedures which governed presentation of evidence by the prosecution now apply to evidence presented by the defense. The only difference is that the defense calls the witnesses and questions them first.

At the conclusion of the defendant's case, the prosecutor may present additional information to deny evidence offered by the defense. Following this, the defense is given another opportunity to present additional evidence on the defendant's behalf.

### *Closing Arguments*

When both sides have presented their evidence, each side may make closing arguments. Closing arguments are similar to opening statements. They provide an opportunity for the attorneys to address the judge or jury one final time regarding the case. The plaintiff/prosecutor speaks first, usually summarizing the evidence that has been presented, and highlighting items most beneficial to the prosecution. The attorney for the defendant speaks next. The defense attorney will usually summarize the strongest points of the defendant's case and point out flaws in the case presented by the prosecutor. The prosecutor then has one last opportunity to speak.

### *Verdict*

After closing arguments in a jury trial, the judge reads instructions to the jurors explaining the law that applies to the case. Jury members are required to follow these instructions in reaching a verdict. The jury goes to a special jury room and elects a foreman to lead the discussion. Jurors must consider all the evidence, review the facts of the case, and reach a verdict. When the jury makes its decision, the court is called back into session. The foreman presents a written verdict to the judge, and either the judge or court clerk reads the jury's verdict to the court. The court then enters a judgment based on the verdict, and the jury is released from duty.

If found not guilty, the defendant in a criminal case is released immediately. If the defendant is found guilty, a date is set for sentencing.

### *6. Sentencing*

At the sentencing hearing, the judge hears testimony from the prosecution and the defense regarding the punishment that each side feels the defendant should receive.

In Arizona, the Legislature has established a range of sentences for different

crimes, and the judge must impose a sentence within the range outlined by law. The options include probation, fines, imprisonment or a combination of these punishments. In some cases, the death penalty can be imposed.

#### 7. Appeals

A convicted defendant may appeal. In a case where the death penalty is imposed, an automatic appeal is filed with the Supreme Court. In all other criminal cases, the appeal goes to the Court of Appeals.

### CIVIL CASES

Civil cases typically involve legal disagreements between individuals, businesses, corporations or partnerships. A person can also be involved in a civil lawsuit with a government entity, such as a state, county or city.

Most civil cases involve disputes related to breach of contract, the collection of a debt, monetary compensation for personal injuries, property damage or family law issues such as divorce.

The party suing in a civil case is the plaintiff, and the party being sued is the defendant.

#### *Steps in Bringing a Civil Lawsuit*

1. The plaintiff files a document ("complaint") with the clerk of the court stating the reasons why the plaintiff is suing the defendant, and what action the plaintiff wants the court to take.
2. The plaintiff must state whether the case is eligible for arbitration according to court rules.
3. A copy of the complaint and a summons are delivered to ("served on") the defendant.
4. The defendant has a limited time (usually 20 days) to file a written answer admitting or denying the statements in the complaint.

5. The plaintiff and the defendant exchange information about the case. This is called "discovery."

6. Each side may file motions asking the court to decide disagreements prior to trial.

7. The parties may agree to a settlement before going to court and avoid the cost of a trial.

8. Either party can ask the court to schedule the case for trial.

9. The case is tried before a jury or a judge. At trial, the first to speak is the attorney for the plaintiff. Opening statements are made and the attorneys do their work by calling on witnesses and asking them questions and presenting evidence.

10. The judge makes a decision, or the jury gives its verdict, based on the testimony and other evidence presented during trial.

11. The losing party may appeal the decision to the next higher level of the court.

### COURT OF APPEALS CASE PROCESSING

When an appeal is filed, the trial court sends the official case records to the Court of Appeals. When the records and attorneys' written arguments ("briefs") have been received by the court, the case is said to be "at issue," and is assigned to a three-judge panel for consideration. All cases filed in the Court of Appeals must be reviewed.

The brief of the person filing the appeal (the appellant) contains legal and factual arguments as to why the decision of the trial court should be reversed. The person against whom the appeal is made (the appellee) has the right to respond to these arguments.

An Appellate Court does not conduct trials. It reviews papers, exhibits and transcripts from the trial court. These items are the

"record on appeal," and are used to determine whether the trial court correctly followed the law in making its decision.

After they have reviewed the record, judges of the Court of Appeals may hear oral arguments from the attorneys before deciding the case and issuing an opinion. A majority vote (at least two out of three judges in agreement) decides the case.

Court of Appeals judges have three main choices when making a decision:

- 🏛️ Affirm (agree with) the trial court's decision; or
- 🏛️ Reverse the decision (disagree); or
- 🏛️ Remand the case (send the case back to the trial court for further action or a new trial).

## **SUPREME COURT CASE PROCESSING**

A petition for review is filed with the Supreme Court when a party wants to appeal a decision from the Court of Appeals.

After a petition for review has been filed, the record is transferred to the Supreme Court. After reviewing the petition for review and supporting materials, the court decides whether to grant or deny review of the appeal.

In almost all cases, the Supreme Court's review is discretionary. This means the court may refuse to review the case. In that event, the decision of the Court of Appeals is final.

When the Supreme Court agrees to review a decision, the justices study the record and the questions or "points of law" it raises. In some cases, the court will hear oral arguments from the attorneys involved in the appeal.

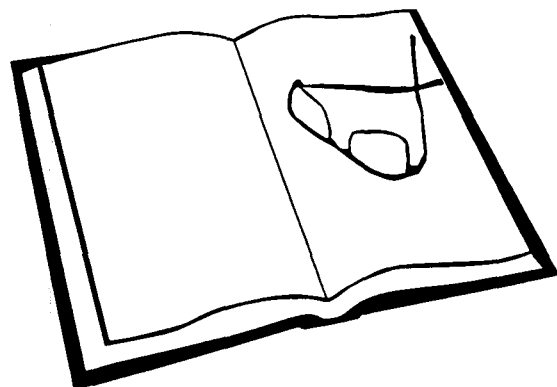
During oral argument, the attorney for the appellant (the party making the appeal) highlights and clarifies the client's side of the case. Then the attorney for the appellee (the party responding to the appeal) presents the other side. The justices often question the attorneys about the issues and about the

case law cited in support of their position.

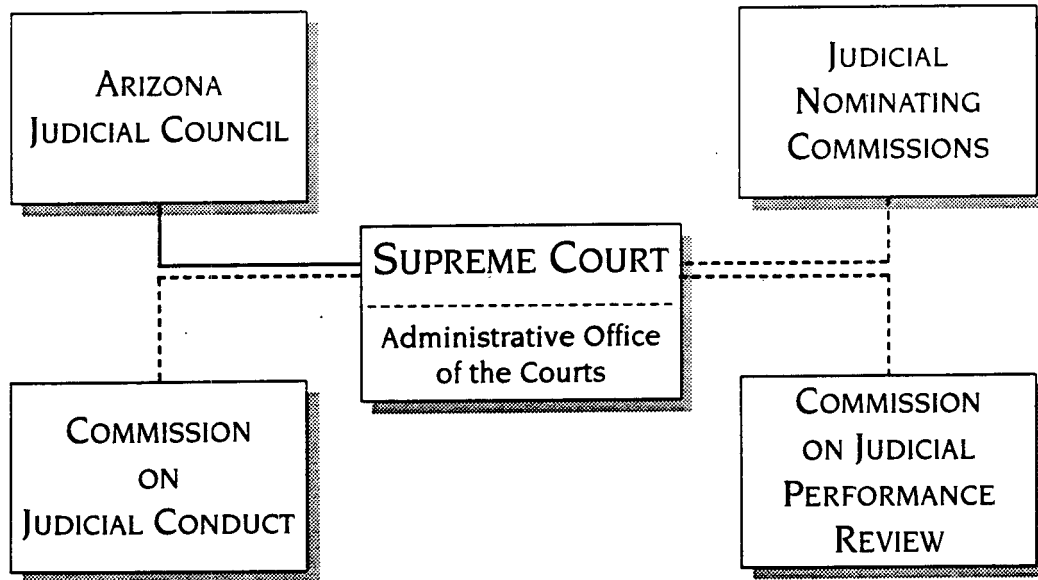
After reviewing the case, the justices meet privately to discuss the case and vote on how the court should resolve it. A majority vote decides the case. Then, one justice is assigned to write the court's majority opinion.

Decisions of the court must be in writing. When issuing a written decision or opinion, the court may:

- 🏛️ Affirm (agree with) the judgment of the lower court which means that judgment is final; or
- 🏛️ Reverse (disagree with) the decision of the lower court, meaning the Supreme Court's decision must be carried out; and/or
- 🏛️ Remand the case (send it back to the trial court for further action and possible retrial).






## Judicial Administration



### ARIZONA JUDICIAL COUNCIL

The Arizona Judicial Council was established in 1990 by the Chief Justice to assist the Supreme Court in developing and implementing policies and procedures for managing the court system.












The Arizona Judicial Council assists the Supreme Court and the Chief Justice in developing and implementing policies designed to provide:

-  Central direction for managing all state courts.
-  Consistency in court operations.
-  Coordination of court services.

The Council operates with four standing committees: the Commission on Technology, the Committee on Judicial Education and Training, the Committee on the Superior Court and the Limited Jurisdiction Committee.

### ARIZONA JUDICIAL COUNCIL MEMBERSHIP

#### Chief Justice, Chair \*

-  Two Court of Appeals Chief Judges (Division One and Division Two)\*
-  Two Presiding Judges, Urban (Maricopa and Pima Counties)\*
-  Two Presiding Judges, Rural
-  Magistrate
-  Justice of the Peace
-  Administrative Director of the Courts\*
-  President, State Bar of Arizona\*
-  Two Public Members
-  One Clerk of Superior Court
-  Chair of the Committee on the Superior Court
-  Chair of the Limited Jurisdiction Committee

\* Denotes service by virtue of position.  
All other members are appointed at the discretion of the Chief Justice

## ADMINISTRATIVE OFFICE OF THE COURTS

The Arizona Constitution authorizes an administrative director and staff to assist the Chief Justice with administrative duties.

Under the direction of the Chief Justice, the administrative director and the staff of the Administrative Office of the Courts provide the necessary support for the supervision and administration of all state courts.

The Administrative Office of the Courts provides:

- ▤ Technical assistance to all courts.
- ▤ Research and analysis.
- ▤ Assistance in implementing special programs and procedures.
- ▤ Assistance in developing and implementing rules and procedures for the courts.
- ▤ Training and continuing legal education for all judicial employees.
- ▤ Public education and information programs regarding the judiciary.
- ▤ Administration and implementation of juvenile justice programs, juvenile probation services and adult probation services.
- ▤ Administration of the Foster Care Review Board (FCRB), which utilizes volunteers to review the cases of children in foster care, and CASA (Court-Appointed Special Advocate program), that uses specially trained volunteers to recommend appropriate case plans and services for children in foster care.
- ▤ Administration of a Confidential Intermediary Program that facilitates searches between adoptees and birth parents.
- ▤ Administration of the Parent Assistance Hotline that provides information to parents whose children have been removed from the home by the court.
- ▤ Administration and support of statewide domestic relations commit-

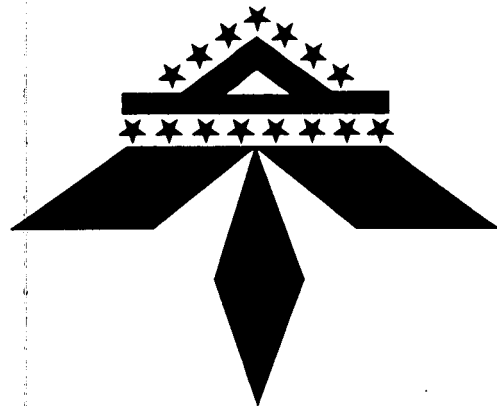
tees, child support and programs which address domestic violence concerns.

### *Budgeting, Fund Administration and Judicial/Legislative Relations*

The Administrative Office of the Courts assists the court system in preparing budgets and seeking funding from the Legislature, recommends and/or comments on legislation that may affect the judicial department and handles special projects assigned by the Supreme Court.

The following program funds are administered by the Administrative Office of the Courts. The source of funding for the programs is court-ordered fees and/or surcharges.

- ▤ Alternative Dispute Resolution (ADR) Fund: These funds are used by Justice of the Peace Courts and Superior Courts for projects that establish, maintain, improve or enhance local, regional or statewide alternative dispute resolution programs.
- ▤ Case Processing Assistance Fund: These funds are used to help courts process criminal and juvenile delinquency cases.



⌚ Judicial Collection Enhancement Fund (JCEF)/Traffic Case Processing Fund (TCPF): JCEF monies are used by courts to improve collection and management of money owed to the court. This includes fines, fees, penalties, restitution and child support. JCEF also funds automation projects that improve case processing. TCPF monies fund administration of the Defensive Driving School program and projects that expedite processing of traffic cases.

⌚ Juvenile Crime Reduction Fund: This money is awarded to state, city, county and tribal entities and school districts to conduct awareness and educational programs. Programs receiving awards are designed to reduce juvenile crime statewide.

⌚ Public Defender Training Fund: These funds are disbursed to county public defender or alternative defender offices in the state to be used exclusively for training purposes.

Some programs receive funding from other sources:

⌚ Drug Enforcement Account: The Arizona Supreme Court receives a grant of federal funds, and serves as the subgrant administrator for programs in the state. Funds are disbursed to programs that are affected by increased numbers of arrests and prosecution and processing of offenders targeted by the federal "Drug War" initiative. The funding comes from the federal government via the Arizona Criminal Justice Commission.

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## THE AOC

*The Administrative Office of the Courts (AOC) can be thought of as a "corporate office," and the Supreme Court Justices as the "Board of Directors." The AOC develops and implements programs to support the work of the court and to assist the Chief Justice with administrative duties.*

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## UPHOLDING JUDICIAL STANDARDS

### *Judicial Nominating Commissions (Merit Selection of Judges)*

Arizona voters amended the state constitution in 1974 to provide for a "judicial merit selection and retention" process. This amendment requires the governor to appoint appellate court judges statewide and Superior Court judges in Maricopa County and Pima County, from a list of nominees submitted by "judicial nominating commissions". Although the constitution allows counties other than Maricopa and Pima the option of merit selection, Superior Court judges in Arizona's other 13 counties continue to seek office in contested elections.

The Commissions on Judicial Appointments, also known as judicial nominating commissions, are responsible for nominating individuals to fill judicial vacancies in appellate courts and the Superior Court in Maricopa and Pima counties.

In 1992, Arizona voters approved the first changes to the merit selection process since it was adopted in 1974. The changes modify the process for appointing Superior Court and appellate court judges, including adding the requirements that judicial nominating commissions hear public testimony and vote in public before making recommendations to the governor, who then appoints new judges from the recommendations of the commissions.

A new increased level of participation includes committees that screen and recommend candidates to the governor to serve on the three nominating commissions. There are 11 of these committees—five each for the Maricopa and Pima County nominating commissions and one for the statewide appellate nominating commission.

Each of the three nominating commissions—Maricopa County Commission on Trial Court Appointments, Pima County Commission on Trial Court Appointments and the Commission on Appellate Court Appointments—has 16 members: 10 non-attorneys

and five attorneys, plus the Chief Justice of the Supreme Court or a designated Supreme Court justice, who serves as a voting chairperson for all three commissions.

When vacancies occur for non-attorney members of the trial court nominating commissions, the county board of supervisors member from the district in which the vacancy occurred appoints a nominating committee of seven persons from the district. Public notice is given that applications are being accepted for appointment to the commission. All applications, along with the committee's recommendations, are forwarded to the governor for consideration.

When a non-attorney vacancy occurs on the appellate court commission, the governor appoints a nominating committee of nine members who solicit and review applications, and forward names of all applicants along with the committee's recommendation to the governor.

Attorney members of the three commissions are nominated to the governor by the Board of Governors of the State Bar of Arizona.

Members of the commissions are appointed by the governor and confirmed by the Senate. The commissions submit at least three names to the governor for each judicial appointment, with major consideration given to geographic and ethnic diversity. The primary criterion for judicial selection is merit—the candidates' professional qualifications.

Should a commission fail to submit names for appointment consideration to the governor within 60 days of the vacancy occurrence, the governor may appoint any qualified person to fill the judicial vacancy. Should the governor fail to appoint one of the commission's nominees within 60 days after the names are submitted, the Chief Justice makes the appointment.

## Commission on Judicial Performance Review

Arizona's judicial performance review program strives to provide clear and accurate reports to the public about how well judges are doing their jobs before each general election. In 1992, voters amended the Constitution to require periodic review of the performance of appointed judges. The Commission on Judicial Performance Review was established to administer the performance evaluation process.

The Constitution requires evaluations of judges appointed through the merit selection process, using specific performance standards and performance reviews. The performance evaluation process includes surveys of jurors, witnesses, litigants, administrative staff and attorneys who have observed the judge at work. The public also provides input through written comment and public hearings. Reports on judicial performance are prepared by the commission and are made available to the voters before general elections.

### ***Judges Appointed to the Bench under the Merit System:***

- Initially hold office for a term ending 60 days following the next regular general election after the expiration of a term of two years in office.
- Seek election where voters indicate "yes" or "no" as to whether the judge should remain in office.
- If retained, will serve a full regular term: four years for Superior Court or six years for appellate court. If a judge is not retained, the office is vacated upon expiration of the term and the appropriate commission begins the nominating process to fill the vacancy.



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### **HOW JUDGES GET INTO OFFICE**

*Judges who are screened and selected by public committees and appointed by the governor are:*

- ⚖ Supreme Court Justices
- ⚖ Court of Appeals Judges
- ⚖ Maricopa County Superior Court Judges
- ⚖ Pima County Superior Court Judges

*Once appointed, the judges are retained or rejected by the voters every four years for Superior Court and six years for the appellate courts.*

*Judges who are elected are:*

- ⚖ Superior Court judges from the following counties: Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Pinal, Santa Cruz, Yavapai and Yuma (all counties excluding Maricopa and Pima).
- ⚖ Justices of the Peace

*City magistrates/municipal judges are usually appointed according to the law governing the city or municipality. The citizens of Yuma elect their municipal judge. Phoenix and Tucson Municipal Court judges are nominated by a merit commission.*

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## Commission on Judicial Conduct

As authorized by the Arizona Constitution, the Commission on Judicial Conduct is charged with reviewing and investigating complaints against state and local judges and other judicial officers. The commission DOES NOT have authority to investigate a judge's decision in a court case or to determine whether or not a court ruling can be appealed.

The commission has 11 members with diverse backgrounds and broad experience, both in and out of the court system. Six members are judges appointed by the Supreme Court: two from the Court of Appeals, two from Superior Court, one from a Justice Court and one from a Municipal Court.

The commission's two attorney members are appointed by the Board of Governors of the State Bar of Arizona. The three public members cannot be attorneys or judges and are appointed by the governor with the consent of the Arizona Senate. Commission members serve six-year terms.

The commission has authority to discipline a judge informally and to issue private sanctions for improper conduct. The commission also has the power to initiate a formal proceeding, much like a trial, to determine the facts in a particular situation and to recommend to the Supreme Court that it censure, suspend or remove a judge for serious misconduct.

The activities and proceedings of the commission are confidential except when formal charges are filed against a judge. When this happens, the commission's investigation becomes public and all proceedings, including the formal hearing, are open to the public.

The commission publishes a handbook fully describing its programs and procedures. This information may be obtained by contacting:

**Commission on Judicial Conduct**  
1501 West Washington, Suite 229  
Phoenix, Arizona 85007  
(602) 542-5200

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### DUTIES OF THE COMMISSION ON JUDICIAL CONDUCT

*The commission investigates complaints involving:*

- ⚖ Misconduct in office.
  - ⚖ Misconduct in or out of office involving a criminal conviction.
  - ⚖ A disability that seriously interferes with the judge's performance of judicial duties.
  - ⚖ Willful and persistent failure to perform duties.
  - ⚖ Habitual substance abuse (addiction to alcohol or drugs).
  - ⚖ Conduct that brings the judicial office into disrepute.
  - ⚖ A violation of the Code of Judicial Conduct.
-

*This glossary is provided to help identify courtroom and other legal terms.*

**A.R.S.**

Arizona Revised Statutes: Books containing the laws that the Arizona Legislature has enacted.

**ACQUIT**

To find a criminal defendant not guilty.

**ACTION**

A dispute taken to court to be settled. Same as "case," "suit" and "lawsuit" when used in the courtroom context.

**ADMISSIBLE**

Evidence that is properly introduced in a trial.

**ADVERSARY SYSTEM**

Method used in the courts of the United States to settle legal disputes. Both parties in the case tell their story to the judge and/or jury for resolution.

**AFFIDAVIT**

A statement or declaration of facts that has been written down and confirmed by the originator under oath.

**AFFIRM**

To uphold a decision made by a lower court.

**ALTERNATIVE DISPUTE RESOLUTION (ADR)**

The process of settling a legal dispute without a formal trial.

**ANSWER**

Written response in a civil case; in it the defendant admits or denies the allegations of the plaintiff's complaint and states any defenses that apply.

**APPEAL**

Legal process used to ask a higher court to review a decision.

**APPELLANT**

The person/party appealing the judgment or decision of a court.

**APPELLATE COURT**

A court having jurisdiction (authority) to hear appeals.

**APPELLEE**

The party against whom the appeal is taken.

**ARBITRATION**

The assignment of a civil case to an impartial third party for a decision.

**ARBITRATOR**

An attorney selected to hear a case and settle the legal dispute without a formal trial.

**ARRAIGNMENT**

Court proceeding in which the defendant stands before the judge to answer criminal charges by entering a plea of guilty or not guilty.

**ATTORNEY-AT-LAW**

One who is admitted to the State Bar of Arizona and who may represent clients in legal proceedings. Also called lawyers or counsel.

**BAIL**

Money or other form of security the judge requires to be held by the court to ensure that a criminal defendant, released while awaiting trial, will be in court for the trial. Bail is returned when the defendant returns for trial.

**BAILIFF**

Courtroom attendant responsible for keeping order in the courtroom and supervising the jury.

**BENCH**

The seat where a judge sits in court.

**BOARD OF SUPERVISORS**

Local governing body at the county level.

**BRIEF**

Written statement explaining facts of a case and laws that apply.

**BURDEN OF PROOF**

Responsibility for proving the facts in a case.

**CASE**

Lawsuit, suit, or action being resolved through the court system.

**CASE LAW**

Law composed of previous written decisions of appellate courts.

**CHAMBERS**

Private office of a judge or justice.

**CHIEF JUSTICE**

Presiding justice of the Arizona Supreme Court.

**CIVIL COMPLAINT**

Document filed by the plaintiff in a civil case that outlines the plaintiff's claim against the defendant.

**CIVIL LAW**

Area of law that deals with disputes between individuals, not involving crimes.

**CLERK OF THE COURT**

An appointed or elected official who is responsible for keeping records and accounts for a court and managing routine affairs.

**CONSTABLE**

An elected official whose primary duty is to deliver and return legal notices and documents as directed by a Justice of the Peace Court.

**CONVICTION**

A decision by the judge or a verdict by the jury determining that a person charged with a criminal offense is guilty beyond a reasonable doubt.

**COUNTERCLAIM**

A claim filed by a defendant in a civil case against the plaintiff's complaint. For this claim, the defendant is a plaintiff.

**COUNTY ATTORNEY**

Attorney elected in each county to prosecute criminal cases on behalf of the public and to represent the county in civil matters.

**COURT ADMINISTRATOR**

Person who assists the presiding judge in managing the court.

**COURT COMMISSIONER**

Person with authority to do the job of a judge in limited cases.

**COURT OF RECORD**

Courts in which all proceedings are permanently recorded according to law. Justice of the Peace and Municipal Courts are not courts of record, but they sometimes do keep records of court proceedings.

**COURT REPORTER**

A person who records all formal court proceedings in order to be able to produce a transcript of the proceeding.

**COURTROOM CLERK**

Person in charge of recording specific proceedings in court (including the date, names of parties, case number) and keeping the court records.

**CRIME**

An act forbidden by law and punishable by fine, probation, imprisonment or death.

**DECIDE**

To render a decision.

**DEFAULT**

Failure of the defendant to file an answer or appear in a civil case within the allowed period of time. The plaintiff may then ask for a judgment against the defendant granting everything requested in the complaint.

**DEFENDANT**

The person or party sued in a civil case or accused in a criminal case.

**DELINQUENT ACT**

An act committed by a juvenile that if committed by an adult would be a crime.

**DEPENDENCY**

A relationship in which one depends on another for support in whole or in part.

**DISCOVERY**

The pre-trial process by which one party becomes aware of the evidence gathered by the other party.

**DISMISSAL**

An agreement to terminate all or part of a lawsuit.

**DOMESTIC RELATIONS**

Area of law dealing primarily with family issues such as divorce, child support, custody and visitation.

**EVIDENCE**

Testimony of a witness, an object, or written documents submitted in court regarding the facts in a case.

**EXHIBIT**

A document or object that is offered into evidence during a trial or hearing.

**FELONY**

A serious crime, punishable by imprisonment by the Department of Corrections. In some cases, the death penalty can be imposed.

**FORCIBLE ENTRY AND DETAINER**

A special proceeding for returning possession of lands, tenements or other real property to a person who has been wrongfully kept off the land or deprived of use of the land. This is a common proceeding used in landlord/tenant disputes, also known as eviction.

**JURY FOREMAN**

The presiding member of the grand or petit jury chosen by the members, who speaks or answers for the jury.

**GENERAL JURISDICTION COURT (SUPERIOR COURT)**

Court that has authority to hear all legal actions not assigned exclusively to another court.

**GRAND JURY**

A group of 12-16 citizens who usually serve a term of not more than 120 days to hear or investigate charges of criminal behavior. Their indictment, called a "true bill," leads to a court trial of the person charged.

**IMPEACH**

A formal accusation by the Arizona House of Representatives that a public official committed misconduct in office.

**INCORRIGIBLE**

Refers to a juvenile who is unmanageable by parents or guardians. Incorrigible offenses include running away and truancy.

**INDICTMENT**

A formal, written accusation by a grand jury charging that a person or business committed a specific crime.

**INITIAL APPEARANCE**

The first appearance in court by the defendant in a criminal case.

**INSOLVENCY**

Inability or lack of means to pay debts.

**JUDGE**

The public officer authorized to preside over, hear and determine cases in a court of law.

**JUDGMENT**

The official decision by a court regarding the rights and claims of the parties to a civil or criminal lawsuit.

**JUDGE PRO TEMPORE**

A person assigned to perform the duties of a judge on a temporary basis.

**JUDICIAL PERFORMANCE REVIEW**

The process as required by the Arizona Constitution to periodically review the performance of judges appointed by the governor.

**JURISDICTION**

The legal authority of a court to hear and decide cases; the exercise of judicial power within certain geographic, monetary or subject matter limits.

**JURY COMMISSIONER**

Court officer who ensures that potential jurors are available to serve when needed by the courts.

**LAW**

Provisions which regulate the conduct of society, primarily generated by the legislative branch of government.

**LIMITED JURISDICTION COURT**

A court which may hear and decide limited types of cases. In Arizona, these are the Justice of the Peace and Municipal Courts.

**LITIGANT**

A party (person or persons) involved in a lawsuit.

**LITIGATION**

A judicial contest which seeks a decision from the court.

**MAGISTRATE**

Often used to refer to a Municipal Court judge, but A.R.S. §1-215 provides a broad definition that includes all judicial officers with power to issue a warrant for arrest: includes a Supreme Court justice and judges of the Superior, Justice of the Peace and Municipal Courts.

**MERIT SELECTION**

A system for a judicial nomination commission to recommend candidates for judicial appointments to the governor.

**MISDEMEANOR**

Offense less serious than a felony, punishable by a sentence other than being sent to prison. (A.R.S. § 13-105).

**MOTION**

A request to a judge seeking a specific ruling or court order.

**OATH**

A pledge, promise, or declaration to provide true information in court or in an affidavit.

**OPINION**

Written statement issued to report the decision of an appellate court.

**PARTIES**

Persons, partnerships, corporations, businesses, or governmental organizations involved in legal proceedings.

**PETIT (TRIAL) JURY**

The group of people selected to decide the facts and render a verdict in a civil or criminal trial.

**PETITION**

Written request to the court asking for specific legal action.

**PETITION FOR REVIEW**

An application asking an appellate court to examine a ruling or decision.

**PLAINTIFF**

In a civil action, the party who files the lawsuit; in a criminal case, the state is the plaintiff.

**PLEA**

Response of a defendant to the criminal charges stated; the plea is usually "guilty" or "not guilty."



**PLEA AGREEMENT OR PLEA BARGAIN**

A process between the accused and the prosecution to negotiate a mutually satisfactory outcome of the case.

**POINTS OF LAW**

The legal questions that a case may raise.

**PRECINCT**

Geographic subdivision of city, town or county, used to describe the jurisdiction of a justice of the peace or for election purposes.

**PRELIMINARY HEARING**

Court proceeding used to determine whether there is enough evidence against a person charged with a felony to proceed to trial.

**PRESIDING JUDGE**

Judge who handles the administrative duties of the court. Depending on the court, this judge may also hear cases.

**PROBABLE CAUSE**

Reasonable cause; there is more evidence for than against.

**PROBATION**

A conditional suspension of the sentence given by a court in a criminal case. If the terms of probation are completed successfully, the sentence is not imposed. If the terms of probation are violated, probation may be revoked and the sentence carried out.

**PRO PER OR PRO SE**

Appearing in court for oneself, as in the case of one who does not use the services of a lawyer.

**PROPOSITION 109**

The constitutional amendment which required public input and the establishment of a process to review judges' job performance.

**PROSECUTOR**

Attorney representing the citizens of a particular community or the state in a criminal case. This may be the city attorney, county attorney or attorney general.

**RECORD ON APPEAL**

Those papers, transcripts, and exhibits from the trial court that are forwarded to the appellate court for review.

**REMAND**

To send back; an appellate court may remand a case to the trial court for re-trial or other action.

**REST**

A party is said to "rest" or "rest its case" when it has presented all of the evidence it intends to offer.

**RETENTION**

The electoral process by which voters decide whether judges will continue to serve another term in their current judicial capacity.

**REVERSE**

Decision of an appellate court to change all or part of the decision of a lower court.

**SENTENCE**

Punishment set by the court within the range of punishments authorized by statute.

**SETTLEMENT**

An agreement which provides satisfaction to one or both parties in a civil lawsuit in return for dismissal of the case.

**SMALL CLAIMS DIVISION**

Special division established within each Justice of the Peace Court to legally resolve claims that do not exceed \$1,500.

**STATUTE**

Law enacted by the Legislature and published as the Arizona Revised Statutes.

**SUMMONS**

Legal document issued by the court that directs the sheriff or other officer to notify the named defendant that a complaint has been filed and that the defendant is required to appear and answer the complaint on or before the time and date specified.

**TESTIMONY**

Statements made by witnesses who have taken an oath or affirmed that they will tell the truth.

**TRANSCRIPT**

Official written, word-for-word record of court proceedings.

**TRIAL**

Formal presentation of facts to a court or jury in order to reach a legal decision.

**TRIAL DE NOVO**

A new trial that is held upon appeal from a non-record court, or from appeal of an arbitration award.

**TRUE BILL**

An indictment by a grand jury.

**VERDICT**

Formal decision of a trial jury.

**WITNESS**

Person who gives testimony regarding what he/she saw or heard.

***Grateful acknowledgment for legal review and input is made to:***

*Judge Nancy R. Conner, Scottsdale Justice of the Peace Court*

*Judge Kathy McCoy, Kingman Municipal Court*

*Janet G. Cornell, Court Administrator,*

*Southeast Superior Court, Maricopa County*

*Gary Nelson, Chief Staff Attorney, Arizona Supreme Court*

*Keith Stott, Executive Director, Commission on Judicial Conduct*

*Greg Eades, Legal Staff, AOC*

*This publication can be provided in an alternative format upon request  
to assist persons with disabilities.*

## **APPENDIX "B"**

### **DORFMAN REPORT ON ARIZONA LIMITED JURISDICTION COURT**

ARIZONA JUDICIAL COURT  
 OFFICE OF THE CLERK  
 98 JUL 13 11 4:43

**DRAFT**

DORFMAN REPORT ON ARIZONA  
 LIMITED JURISDICTION COURTS

**Foreward**

Recognizing that an effective legal system is imperative in a society made up of laws, the framers of Arizona's constitution wisely established a triumvirate form of government. Although this report was prepared at the request of the judicial branch, it is based on the premise that all branches of our government--including the executive and legislative branches--have a responsibility for helping improve Arizona's legal system.

There are several reasons for this belief. First, all three branches have an interest in ensuring the peaceful order of society--an order maintained by giving all citizens access to the legal system. Second, government has a responsibility to give taxpayers real value for their hard-earned dollars. Thus, each branch of government must be committed to running an efficient and effective court. Finally, we agree with Justice Sandra Day O'Connor, who noted in *Planned Parenthood of Southern California v. Casey*:

"the {judiciary} cannot buy support for its decisions by spending and, except to a minor degree, it cannot independently coerce obedience to its decrees. The {judiciary's} power lies, rather, in its legitimacy, a product of substance and perception that shows itself in people's acceptance of the Judiciary as fit to determine what the Nation's law means and to declare what it demands."

Like O'Connor, we believe that public confidence in the justice system must be maintained. To the extent that they provide funding and propose and approve legislation affecting the courts, the legislature and executive branch can help ensure this happens. In helping improve our legal system, they will ensure that all Arizonans reap the social and economic benefits of an ordered society and a well managed government.

Attempts to reform Arizona's court system have been ongoing for many years. Despite these well-intentioned efforts, however, the organization and management of our courts has changed little in the 82 years of its existence. Change, until now, has been incremental, at best. As this report shows, such incremental change is no longer practical.

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# DRAFT

## Executive Summary

The time has come to reform Arizona's Limited Jurisdiction Courts. Despite continuing population growth, changing demographics and increased mobility in our society since the court system was established, our courts have changed little in the past 82 years.

- Courts are organized, funded and staffed in order to meet the needs of a community that bears little resemblance to the state of Arizona today. The justice of the peace and municipal courts system, in particular has become fragmented, with substantial overlapping jurisdiction and duplication of administrative effort.
- Our society has grown more complex and litigious. Resources once committed to handling civil cases are now needed to deal with a growing criminal caseload. Civil cases are more numerous and include a variety of concerns, many involving issues and case law that did not exist when the court system was established.
- The infrastructure of limited jurisdiction courts, the experiences and qualifications of our judges and justices of the peace, and the staffing and tools required to operate courts are often insufficient to meet current demands. These factors--along with fragmentation of the courts and jurisdictional overlap--create public confusion, non-uniform application of justice, and difficulty accessing, or getting information from, the courts.

If this situation is allowed to continue, faith in our judiciary--as well as our entire government--will almost certainly erode. On the positive side, however, Arizona has never been in a better position to reform its Limited Jurisdiction Courts.

- New technology, particularly information technology, is available to help organize and manage our courts.
- Arizona citizens, having seen extensive reengineering in their companies and in the federal government, are not only at ease with organizational change--they expect it.

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- Government, at all levels, is being held to a higher standard. Citizens are demanding the governor, the legislature and the courts make tough decisions and strike a better balance between spending and services.
- Taxpayers will not accept, and should not be forced to deal with, bureaucracies, including courts, that are inefficient, inequitable, or out-of-touch.

Although these problems and opportunities affect all of Arizona's courts, they are most profound in the limited jurisdiction courts--the area of the courts with which Arizona's citizens are most likely to deal. These courts process 90 percent of the approximately 1.6 million cases filed in Arizona courts annually. Improving these courts will help increase public confidence in all aspects of our government. Reforms will also substantially improve the cost efficiency of our legal system, which is funded by Arizona taxpayers who have entrusted government to spend their dollars wisely and efficiently.

According to the Arizona State Constitution, the Supreme Court has centralized responsibility for, and is the administrative head of, all the courts in the state. It is the belief of our committee, however, that all three branches of government are responsible for providing taxpayers with a justice system that is uniform, timely, consistent, and efficient.

Despite having centralized accountability for the operation of our justice system at the state level, Arizona's court system is not unified. Since Arizona counties and cities fund the majority of judicial resources, it is difficult to implement uniform operating requirements and standards or to take advantage of economies of scale. To remedy this situation, the Committee to Study Improvements in Limited Jurisdiction Courts strongly supports state/shared funding of the Arizona courts.

It is the Committee's belief that a cost effective and cost efficient court system can best be achieved under one funding authority. Such a funding structure is consistent with Arizona's constitution, which places centralized responsibility for the courts on the Supreme Court and the State of Arizona.

Besides centralized funding, we recommend changes involving structure, jurisdiction, judicial qualifications, judicial salaries, judicial selection, technology, staffing, physical location, and security in Arizona's limited jurisdiction courts. Although these recommendations, summarized below, were prepared under the

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assumption of state/shared funding, they are not dependent on state/shared funding. Regardless of whether or not state/shared funding is adopted, the Supreme Court and the State of Arizona can significantly improve Arizona's limited jurisdiction courts through the following actions:

- Establishing a coordinated justice of the peace (JP) and municipal courts system.
- Eliminating jurisdictional overlap between JP and municipal courts.
- Increasing qualifications for state trial court judges (JP's and municipal court judges).
- Equalizing salaries for all state trial court judges (JP's and municipal court judges).
- Providing consistency through the judicial selection process and increasing information available to appointing entities and/or voters.
- Enhancing court operations and promoting the feasibility of open, uniform automation systems.
- Acquiring adequate staffing levels.
- Promoting the efficient use of resources through a court system structure and geographical location of individual courts that will result in efficient and effective dispensation of justice.
- Enhancing the security and safety of judicial employees and the public.

We undertook this project in the belief that the State of Arizona and the Arizona Supreme Court have a constitutional and ethical responsibility to ensure a justice system that is accessible to all citizens; is operated in a fair and equitable manner; and conducts its business in the most cost-effective and efficient manner available. These recommendations, along with a centralized funding structure, will help ensure such a system exists.

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## I. Introduction and Acknowledgements

Waged over more than four decades and including at least eight major movements toward reform, the campaign to improve Arizona's court system has produced many outstanding ideas for change, but very little substantive action. With this report, prepared at the request of Chief Justice Stanley G. Feldman, the Committee to Study Improvements in Arizona's Limited Jurisdiction Courts has combined the best aspects of all previous reform efforts--along with citizen input and new organizational change strategies--to produce a compelling argument for immediate improvements in Arizona's courts.

The following is how the Committee to Study Improvements got involved in continuing court reform, and how it differs from previous efforts:

- On September 7, 1994, Chief Justice Feldman signed Administrative Order 94-46 appointing a Committee to Study Improvements in Limited Jurisdiction Courts. Its assigned goal was to develop a plan for operating, staffing, and funding limited jurisdiction courts.
- For the first time ever, the make-up of a major court reform committee was designed to reflect the make-up of Arizona's population. This was accomplished by including individual citizen representatives of varying constituencies, in addition to continued representation from the legal, legislative, and judicial community.
- Recognizing that the business community also had a vested interest in an effective courts system, Chief Justice Feldman asked Martin Shultz of Arizona Public Service to chair the committee, and to involve business and legislative leaders who would provide expertise in areas like finance, public policy, process reengineering, and organizational change. These leaders, besides bring unique insights to the Study Committee, would help bring important issues to the public's attention.
- To better focus its effort and provide strategic direction, the Study Committee appointed an Executive Advisory Steering Committee, including many of the above experts, who could more effectively analyze and investigate the impact of all reform recommendations being reviewed.

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This report summarizes the findings of the Executive Advisory Steering Committee, and provides detailed recommendations for implementing reforms. As requested by the overall Study Committee, the report also includes:

- A more in-depth review of previous reform efforts, most notably the 1989 Commission on the Courts Report;
- Inclusion of all previous recommendations, which are still valid and which meet the benchmarks of the current Study Committee, and;
- An implementation plan that identifies legislative, court rule, administrative order, and constitutional changes.

The report begins with an overview of past reform movements, followed by a section with additional detail on recommendations included in the 1989 Commission on the Courts Report. The next section identifies the major problems still affecting Arizona's courts. It also offers benchmarks from the Study Committee that should be used to determine the appropriateness of potential solutions or changes to the courts. These benchmarks outlined below, set the standards by which all improvements to the Arizona's limited jurisdiction courts, including changes proposed in previous reform studies and new recommendations, would be judged by the current committee. Only changes that help meet these high standards are included in this report.

The following are these goals and benchmarks, as set forth by the Study Committee:

*To achieve a justice system that is uniform, timely, consistent and efficient, the Arizona courts need justice of the peace and municipal courts that:*

- *Are fair and equitable to the state's citizens;*
- *Are organized and operated in a cost efficient manner;*
- *Support timely, uniform implementation of civil, criminal, and other statutory or rule changes;*

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- *Are responsive to local needs and consistent with reasonably uniform "community standards;"*
- *Provide fair and impartial access;*
- *Provide the ability to achieve reasonable uniformity of court services and access statewide;*
- *Allow all courts to ensure (and comply with) the enforcement of court orders, monetary and other; and*
- *Assure responsibility, authority and accountability for the administration and operation of the courts is clear and consistent with Supreme Court Administrative Orders dealing with administration and operation.*

After offering a review of the previous reforms and identifying some of the major recommendations that should be carried over from previous studies, this report introduces the Executive Advisory Committee's full recommendations, including strategies for implementing improvements.

## Acknowledgements

We wish to thank Chief Justice Stanley G. Feldman for his dedication to court reform, and for his commitment to continue the reform work of his predecessors in the Arizona Supreme Court. By seeking the input of individuals and business leaders who ultimately finance the courts through their tax dollars, Chief Justice Feldman has put court reform in its proper perspective--as a necessary effort to ensure effective justice and responsible spending of the hard earned dollars of the taxpayers who finance and use our courts.

Thanks also to members of the Committee to Study Improvements in Arizona's Limited Jurisdiction Courts, and to all Arizonans who, over the past four decades, have committed their time and effort to court reform. Your ideas and dedication provided the foundation for this report, and will ultimately ensure a more effective justice system.

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## II. Review of Previous Reforms

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Those familiar with Arizona's court system have long recognized that the structure and operations created when our courts were established, while once very effective and efficient, must be changed if the courts are to continue meeting the needs of a fast changing and growing state. There are significant concerns regarding the court's efficiency and it is widely acknowledged that significant cost savings could be achieved by organizational and structural changes designed to meet the needs of a modern society.

Since 1952, there have been at least eight major movements toward change in Arizona's court system, including seven court reform studies and a Constitutional Amendment (i.e., 1960 Modern Courts Amendment). The following is an overview:

### A. Study Regarding Traffic Issues Relating to the Courts (1952)

In 1952, a study was conducted cooperatively by the American Bar Association, American Association of Motor Vehicle Administrators, the Traffic Division of the International Association of Chiefs of Police, and the Traffic Institute of Northwestern University. Although this study focused primarily on traffic issues relating to the Arizona courts, the study also offered recommendations for improving courts of limited jurisdiction, which included promulgation of uniform rules of procedure for courts of limited jurisdiction, selection of judges on a non-partisan basis for six year terms, abolishment of most police courts to eliminate duplication of functions that existed between justice of the peace and police courts, county-wide jurisdiction of municipal courts in Maricopa and Pima Counties, and supervision and control of courts of limited jurisdiction under an administrative officer of the Arizona Supreme Court.

### B. Report on Justice of the Peace Courts in Arizona (1958)

In 1958, the Arizona Legislative Council prepared a report entitled, "Report on Justice of the Peace Courts in Arizona." This report recommended the integration of justice of the peace and municipal courts into the state court system by eliminating police courts in all counties except Maricopa and Pima county. Additionally, this report recommended that: (1) municipal courts in Maricopa and Pima counties have county-wide jurisdiction through multiple districts with multiple

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judges; (2) uniform procedures for all justice of the peace and municipal courts be established; (3) judges be selected on a non-partisan basis for six year terms; and, (4) qualifications for justice of the peace and municipal courts judges be increased (i.e., a member of the bar or pass a qualifying examination).

#### **C. Modern Courts Amendment (1960)**

In November of 1960, the voters of Arizona approved what is generally referred to as the "Modern Courts Amendment" to the State Constitution. This amendment to the State Constitution resulted in changes to the operations of the Arizona Supreme Court. By this action, Article VI of the charter was rewritten. The significance of this amendment to justice of the peace and municipal courts was the elimination of any possible doubts as to whether or not the Arizona court system was fully integrated. The 1960 amendment specifically vested administrative supervision over all courts of the state in the Supreme Court.

#### **D. Review of Lower Court Operations (1972)**

In 1972, under a grant from the Arizona State Justice Planning Agency, Professor Harold Bruff of the ASU College of Law conducted a comprehensive review of the operation of the state's lower court system. Bruff made several observations and recommendations, which included: the fragmented structure of the justice of the peace and municipal courts caused unnecessary inefficiencies and inequities, a need for continuing education, elimination of municipal courts, a system of courts existed with overlapping territorial and subject matter jurisdiction which did not produce optimum efficiency and needed centralized management, a need for legal research assistance, and a need for existing functions of justice of the peace and municipal courts judges to be separated into those that require lawyers to discharge them and those that do not.

#### **E. Statewide Study on Courts of Limited Jurisdiction (1974)**

In 1974, the Arizona Supreme Court appointed a special statewide committee under the direction of the Honorable Sandra Day O'Connor, Superior Court Judge in Maricopa County, to study the courts of limited jurisdiction. The committee did not issue a general report but drafted a bill which was submitted to the Legislature in 1975. The proposed bill featured the establishment in each county of a new inferior court to be known as a district court with judges of two classes; one class

permissibly non-lawyer judges and the other class lawyer judges. Lawyer judges would have jurisdiction of civil matters up to \$5,000. Non-lawyer judges would have jurisdiction over traffic violations and misdemeanor offenses. The justice of the peace system would be abolished by constitutional amendment, as would the office of constable. This proposed legislation did not get out of committee.

#### **F. Citizen Initiative for Merit Selection of Judges (1974)**

In the same year, 1974, the Arizona Courts Association, a citizens group, proposed an initiative measure to amend the State Constitution to achieve merit selection of Appellate Court judges and judges in Maricopa and Pima counties. The voters approved the measure and the procedures went into effect in December of that year. A number of considerations went into the plan submitted to the voters. These measures did not affect courts of limited jurisdiction.

#### **G. Arizona Judicial Plan (1981)**

In 1981, the "1981 Arizona Judicial Plan" was prepared by the Arizona Judicial Coordinating Committee. This plan set forth issues the committee believed should be addressed in order to improve the services of the judicial branch of government in Arizona. A summary of this committee's recommendations follows: the issue of inadequate court facilities needed to be addressed, there was a need to reaffirm and exercise the administrative authority of the presiding Superior Court judge over all the courts in the county and that of the Supreme Court over all the courts in the state, there was a need to reorganize and improve the operations of the lower court system because the existing fragmentation of the courts worked against the principles of effective administration, and it was in the public's best interest to reorganize the existing lower court structure in order to eliminate overlapping responsibilities.

#### **H. Study of the Arizona Lower Court System (1982)**

In 1982, a study of the Arizona lower court system was conducted by the ASU College of Law under a grant by the Arizona Legislative Council. The study offered recommendations in two areas: (1) statewide legislation designed to strengthen the lower court system without structural change and (2) statewide modifications designed to strengthen the lower court system with structural change. Various plans were drafted and included recommendations involving continuing

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education, legal research services, establishment of a judicial qualifications commission, and court consolidation.

## I. Constitutional Change Affecting the Courts (1988)

Although not a reform movement, this change did impact the courts, and should be included in any historical review of changes. In 1988 a change to the Arizona constitution, Article 6.1, Section 5, modified language from justice of the peace court to include courts inferior to the superior court. The result of the change was that magistrate courts would then fall under this constitutional provision. Article 6.1 provides for the creation of a commission on judicial conduct. Thus, matters involving judges serving municipal courts could be referred to the commission on judicial conduct .

## J. Commission on the Courts (1988-1989)

The most recent and significant study began in 1988 when Chief Justice Frank X. Gordon, Jr. appointed the Commission on the Courts to create a process and environment to facilitate modernization and integration of the Arizona judicial system into the 21st century. The Commission's report included 50 recommendations and 13 issues for further study and was presented to the Supreme Court for approval. After consideration of each recommendation, the Supreme Court approved 28 as submitted by the Commission, accepted 16 with modifications, deferred 5 for further study, and rejected one recommendation. The Court accepted 14 issues for further study. The Commission's report was divided into ten areas: (1) Organizing the System, (2) Managing the System, (3) Staffing the System, (4) Issues Affecting the Criminal Justice System, (5) Resolving Disputes, (6) Enhancing Productivity, (7) Legal Needs of Children and Families, (8) Informing the Public, (9) Fiscal Issues, and (10) Implementation.

The 1988 Commission on the Courts, designed by former Chief Justice Frank X. Gordon, Jr. to facilitate modernization and integration of the Arizona judicial system into the 21st century, set the foundation for our study efforts, and included many viable recommendations. This section reviews the Commission's findings and the status of its recommendations at the time the Study Committee began its work.

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## 1. Organizing the System

The Commission recommended a new structure that it believes will serve the courts' basic task of determining cases justly, promptly, and economically.

The unified trial court concept would reorganize the three separate trial courts in each county into a unified district court consisting of two levels of judges in less populous districts and three levels of judges in more populous districts. The jurisdiction of each district court level would be uniform throughout the state and not overlap among or between levels. To eliminate the redundancy and expense of de novo trials, all matters originating at any level of the district court would be heard on the record.

The Court recognized that the concept of a district court would be desirable for all of Arizona, but felt the most pressing need for an integrated trial court was in Maricopa and Pima Counties, where over three-fourths of the total population of the state are located and 77 percent of the total annual court filings occur. The Court approved the district court concept for these two counties and for other counties that choose a district court system by popular election or grow in population to over 150,000.

## 2. Managing the System

The Commission recommended that a judicial council be constitutionally created to provide: (1) central direction for the administration of all courts, (2) uniformity in court operations, and (3) coordination of court services. The council would be separate from the Supreme Court, but subject to its overview. The Court agreed in concept to a judicial council, but felt that initially the existing Council on Judicial Administration (COJA) could be refashioned by administrative order to do the judicial council's work. This will allow the Court flexibility to experiment with delegation of duties while retaining the ability to change as appropriate.

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3. Staffing the System

The Commission believed that the current qualifications for Arizona judges are too low for the significant responsibility these persons assume. The recommendation was to increase qualifications for various levels of judgeships to be more in line with the responsibilities of the judiciary and to require that all judges attend a course on attorney and judicial professionalism at least once every three years. The Court approved the recommendation for all judges statewide.

To institute a formal evaluation program for all judges, the Commission recommended that the Supreme Court create a Commission on Judicial Performance Evaluation. In addition, the Commission recommended that the merit selection system currently used for general jurisdiction trial courts in Maricopa and Pima Counties should apply to all trial court judges statewide. The Supreme Court approved the evaluation proposal and merit selection for judges in the counties in which the district court system exists.

Noting that the responsibilities of the clerk of the superior court are solely administrative, the Commission recommended that the position should not be an elected position and that the responsibilities of the clerk should be carried out under the direction of the court administrator or chief judge. The elected position of constable was recommended for elimination; the constable's responsibilities would be assumed by the sheriff, court staff, private process servers, or a combination thereof. The Court approved the elimination of both as elected positions in counties using the district court system.

In order to reduce the economic incentive for defendants to postpone settlement negotiations and prolong litigation, the Commission recommended that legislation be enacted to provide prejudgment interest on compensatory damages in all civil cases where the claim is for unliquidated damages.

The Commission further proposed that the Supreme Court adopt a rule permitting bilateral offers of judgment in civil cases, as the current rule only permits an offer of judgment by the defendant. Noting that the State Bar has proposed a similar rule, the Supreme Court approved this recommendation as submitted.

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Lastly, the Commission stated that a permanent commission on court automation is critical to formation of the workable organizational structure necessary to implement automation projects, and it further directed the AOC to provide state-of-the art- technologies in courts where needed.

#### 4. Issues Affecting the Criminal Justice System

The Commission proposed that the Arizona Rules of Criminal Procedure be amended to give victims and witnesses more protection and control over their participation in pretrial proceedings. Interested in making the system as free from trauma to victims and witnesses as possible, the Supreme Court had also been examining the Rules of Criminal Procedure. As a result, the Court enacted Criminal Rule 39, which gives victims additional rights regarding pretrial interviews and depositions, and amended Rule 9.3, which deals with the presence of witnesses in the courtroom.

The Commission also recommended that case volume issues be addressed through uniform enforcement of the Arizona Rules of Civil Procedure and the use of standardized forms and procedures.

#### 5. Resolving Disputes

Because not all courts in the state are congested and experience excessive delay, Arizona courts should have authority to experiment with alternative dispute resolution (ADR) programs best suited to their needs and circumstances. The court agreed and stated that all courts should establish innovative ADR programs.

The Commission further proposed that the effectiveness of court-annexed arbitration should be enhanced by a number of conditions. For example, arbitrable cases should be identified early in the process when parties file their complaint or answer, and non-lawyer arbitrators should be used in cases claiming damages under \$5,000. The Court amended the requirement that attorneys must accept arbitrator appointments and approved expansion of the types of cases subject to arbitration.

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Proposals for submission to the Legislature were developed to establish confidentiality of communications during mediation, codify existing arbitral immunity under case law, and establish a state Office of Public Dispute Resolution.

## 6. Enhancing Productivity

The Commission recommended that the Supreme Court, in consultation with district court judges, adopt caseload management techniques and that the administrative and case management authority of chief judges be increased. The Court agreed, modifying the proposal to agree with the district court concept and noting that the independence of individual judges must continue to be preserved.

## 7. Legal Needs of Children and Families

The court process for dependency actions is complex. The Commission recommended that the process should be changed to improve the timeliness of decisions and reduce the need for direct judicial involvement. Juvenile dependency, incorrigibility, and delinquency cases should be screened for referral to community or court-annexed mediation programs. The Commission also recommended that mediation be introduced as a regular part of juvenile court proceedings.

The juvenile justice system should emphasize early crime prevention and intervention programs for at-risk youths and those already in trouble with the law. The Commission recommended that community-based and institutional treatment resources be made available to the court, the Department of Corrections, and the community.

Three recommendations focused on family issues. One proposal recommended that expedited procedures be established for domestic relations cases and that such disputes be resolved through mediation wherever possible.

The Commission also requested that the Supreme Court develop policies, procedures, and court rules that serve to deter domestic violence and develop guidelines for the treatment of domestic relations matters where domestic violence is an issue. These recommendations are tied together in a proposal

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for adoption of an Arizona Family Code consolidating all statutes impacting children and families.

## 8. Informing the Public

Citizens throughout the state should have access to full court services at courthouses located near their homes, at least on a rotating or circuit-riding basis. Further, the conduct of court business should be extended beyond traditional business hours to include times more convenient for the public. Public education programs to improve accessibility increase the judicial system's responsiveness and create a well-informed community.

## 9. Fiscal Issues

The Commission recommended that the maintenance and operations of the entire court system be state funded by 1995. Judicial salaries should also be increased to a level commensurate with the responsibilities of the office to ensure that the state attracts and retains the best possible judges. Enhancing court revenues through increased filing and usage fees will be studied by the Court.

Automation requires consistent funding in order to develop systems and communication networks. The Commission recommended that the Supreme Court develop a statewide-long-term funding proposal for technology.

## 10. Implementation

The State Justice Institute awarded the Court a 24-month, \$185,000 grant to partially cover the expenses of implementing the Commission's recommendations. A committee was appointed to develop a structure and coordinate implementation efforts, assessing the fiscal, political, and administrative ramifications of each recommendation. The plan included the establishment of local implementation teams in each county to assist in the dissemination of information to the community, facilitate local response and feedback on issues, and coordinate local education and training programs.

In summary, all of the studies dating back to 1952 recommended some degree of unification and improved court management. To date, there has been no significant structural changes to the court system in Arizona.

## **IV. The Needs of Limited Jurisdiction Courts in 1995**

Since 1952, every major court reform study has recommended some degree of unification and improved management of the courts. Despite strong evidence to support these recommendations and the offering of several viable, common sense solutions, there have been no significant structural changes to the court system in Arizona. Meanwhile, ever-increasing demands are being placed on Arizona's justice system and the court's overall ability to be effective continues to decline.

### **A. Benefits of Immediate Improvements**

Since limited jurisdiction courts handle the majority of Arizona court cases, improvements in these courts would have the most impact, both economically and in terms of public perception of Arizona government. For example:

- A well managed court system creates public confidence in government.
- Cost efficiency improvements enable the Supreme Court and the State of Arizona to provide its citizens with more and/or better services for their tax dollars.
- An effective justice system ensures an ordered society and a positive climate in which to do business. Positioned as a benefit in the state's economic development packages, it can help create new jobs and promote a stronger economy.

### **B. Benchmarks for Reforming the Courts**

Before embracing recommendations of past reform efforts or offering new recommendations, the Study Committee developed benchmarks needed to achieve and maintain the benefits described in the previous sections. According to these benchmarks, an effective justice system is characterized by justice of the peace and municipal courts that:

- Are fair and equitable to the state's citizens;
- Are organized and operated in a cost efficient manner;

- Support timely, uniform implementation of civil, criminal, and other statutory or rule changes;
- Are responsive to local needs and consistent with reasonably uniform "community standards;"
- Provide fair and impartial access;
- Provide the ability to achieve reasonable uniformity of court services and access statewide;
- Allow all courts to ensure (and comply with) the enforcement of court orders, monetary and other; and
- Assure-responsibility, authority and accountability for the administration and operation of the courts is clear and consistent with Supreme Court Administrative Orders dealing with administration and operation.

### C. Areas Requiring Change or Improvements

As part of its assignment, the Study Committee was asked to include recommendations in the following areas: jurisdiction and structure, case types, records, judicial qualifications, judicial salaries/compensation, judicial selection, staffing, constables, physical location, technology, security, and--in conjunction with the State Funding Committee--funding for the justice of the peace and municipal courts.

After reviewing previous court reform studies and conducting it's own analysis of the current situation in Arizona's limited jurisdiction courts, the Study Committee identified several major problems and opportunities.

#### Funding:

The lack of centralized funding makes it difficult to achieve system-wide efficiencies and ensure that all areas of the state are provided the resources needed to support efficient and timely operations. The current funding system does not encourage resource sharing, which would contribute to lower overall costs.

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Recognizing these concerns, the Commission on the Courts recommended that the maintenance and operations of the entire court system be state funded by 1995. The Study Committee strongly supports this recommendation. Such a system would help ensure that citizens statewide could achieve reasonably uniform and accessible court services, while still allowing local courts the autonomy needed to respond to the specific concerns of their community.

## Structure and Jurisdiction:

Overlapping jurisdiction of law in the justice of the peace and municipal courts system has created a fragmented system of justice, leading to public confusion, duplication of administrative resources, and lack of uniformity in policies and procedures. This public confusion is compounded by complex jurisdictional divisions between the limited and general jurisdiction courts, which creates confusion within the court system itself.

Structural and jurisdictional overlap--besides conveying the impression of a disjointed, disorganized system of justice--also inhibits case transfers within the court system and impedes the court's ability to develop appropriate processes and procedures. For example, the types of cases handled by limited and general jurisdiction courts often require different procedures or administrative mechanics, which could easily be established by procedural rule. Because of jurisdictional overlap, however, these simple changes often require statutory or constitutional provisions.

Every major court reform effort since 1952 has offered recommendations to reduce duplication of efforts and jurisdictional overlap. In 1958, for example, the Arizona Legislative Council recommended the integration of justice of the peace and municipal courts. In 1981, the Arizona Judicial Plan, again noted that "existing fragmentation of the courts worked against effective administration."

The Study Committee agrees with these findings, and supports efforts to combine justice of the peace and municipal courts. Besides eliminating overlapping responsibilities, this structure will create more efficient operations, support uniformity of court services, eliminate public confusion and streamline administration. Combined courts make it easier for citizens to access the courts and receive service in a timely, efficient manner.

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The Study committee recommends several other jurisdictional changes, such as eliminating jury trials for first offense DUI cases filed in justice of the peace and municipal courts and decriminalizing planning/zoning and dog violations. These types of changes are common sense solutions that meet the Study Committee's benchmarks.

#### Judicial Qualifications, Salaries, and Selection:

Judges in limited jurisdiction courts are being asked to handle a greater number of cases and more complex cases than ever before in the history of our state's courts. Even if qualification and resources were such that all judges were capable of handling these cases, work quality and productivity is likely to suffer in such a high pressure work environment. Additionally, judges asked to work under these conditions are unlikely to continue accepting the continued inequities that exist in judicial qualifications, salaries, and selection methods around the state.

Over the years, several court reform committees have called for increasing the qualifications of judges, improving the judicial selection process, and equalizing judicial salaries. The Study Committee agrees with these recommendations on the basis that Arizona must take these steps to attract and maintain high quality judges who can ensure our courts meet all the benchmarks of an effective justice system. To ensure the consistent application of justice, it is also important that these judicial standards be consistent. Setting statewide standards, but still allowing for local selection of judges, ensures that courts continue to be responsive to the community.

#### Technology, Staffing, Physical Location and Security:

Although the Arizona Supreme Court has responsibility for administration of all state courts, there is little consistency between individual courts. Automation and security systems are neither standardized nor up-to-date, staffing levels vary widely from court to court, and there is little correlation between the geographic location of courts (and the distance between courts) and the needs of the population served by the courts. Changes in all of these areas must be made to ensure that courts are cost efficient, accessible to all citizens, and able to enforce court orders and make statutory or rule changes on a timely, consistent basis.

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#### **D. A Guide to Recommendations**

The remainder of this report includes detailed recommendations for improving Arizona's limited jurisdiction courts. Listed below are the designations used for each type of action required for implementation:

- **Legislative Change** requiring drafting of proposed statutory changes, review by committees of the Arizona Judicial Council, introduction/sponsorship of a bill into the Arizona Legislature, and action on the part of the legislature;
- **Administrative Change** under the authority of the Chief Justice of the Arizona Supreme Court;
- **Court Rule Change** under Rule 28 process of the Arizona Supreme Court;
- **Constitutional Change** requiring an amendment to the State Constitution and a vote of the citizens of Arizona; and,
- **Long-term Change** requiring additional planning and study.

Each recommendation lists the entity(ies) responsible for initiating the action. There also is a list of recommendations, according to type of action required, in Appendix A.



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## V. Recommendations

The recommendations provided on the following pages have been prepared under one primary assumption: **state/shared funding of the limited jurisdiction courts in Arizona**. This committee supports state funding of the arizona courts and believes that the most cost efficient and cost effective court system can only best be achieved under one funding authority. However, it is vital that regardless of whether or not state funding of the courts is adopted, improvements to the limited jurisdiction court system in Arizona must be made.

Each recommendation includes the following sections: (1) a problem statement; (2) the actual recommendations; (3) methodology, and (4) implementation information. Sections 2, 3, and 4 are dependent upon the funding scheme. Thus, recommendations under a state funded court system are included as well as recommendations under the current funding structure. Recommendations and supplemental information assuming state funding appear in regular typeface and often include the phrase "State Trial Court System." Alternative recommendations and information concerning recommendations that could be adopted under the current funding scheme appear in italics.

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## A. Structure

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### Problem

Arizona's limited jurisdiction court system has become fragmented, inefficient and inconsistent as the result of overlapping jurisdiction between the justice of the peace and municipal courts. Besides the costly duplication of administrative effort, this fragmented system may create public confusion, especially if policies, procedures and justice itself are not uniformly applied.

### Recommendations

1. Establish a coordinated justice of the peace and municipal courts system in Arizona to:
  - ensure the presiding judge provides adequate oversight of the courts in the county, to utilize uniform procedures, records, and equipment to facilitate case management, reduce costs, and eliminate inconsistencies between the courts in the county in order to be consistent with Constitution provisions (i.e., Article 6, Section 1) create a unified judiciary and centralize administration on a county-by-county basis;
  - eliminate overlapping and fragmented jurisdiction;
  - increase access for the public by creating a more organized court system including having representatives of the system (i.e., judges and staff) in selected non-urban areas and neighborhoods where appropriate or other means of improving accessibility; and
  - develop a more strategic and more efficient use of the judiciary, staff, and facilities; specifically, consolidate court locations to reduce costs and increase efficiencies. The presiding judge of each county will be given the authority to make all necessary allocations of judicial resources in the county regardless of the title of the courts. *(Note: This recommendation assumes state funding of the courts or consolidated limited jurisdiction courts under the county, not the cities.)*

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## Methodology

In order to achieve this objective, legislative changes are necessary to achieve the recommendations outlined above. Statutes must be modified to provide the authority for all "State Trial Court Judges" to act in all precincts or areas of the county in all matters coming before the court. Thus, the following statutes require modification:

- A.R.S. §12-121
- A.R.S. §22-114
- A.R.S. §22-201
- A.R.S. §22-203
- A.R.S. §22-204
- A.R.S. §22-205
- A.R.S. §22-301

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## B. Jurisdiction

### Problem

The jurisdictional divisions between Arizona's limited and general jurisdiction court systems are complicated and confusing, both to those within the court system and to the general public. Internally, jurisdictional divisions inhibit the court's ability to adapt to changing caseloads or operating conditions. For example, jurisdictional divisions often require that simple procedural rules be made by constitutional or statutory provisions. This often delays needed improvements affecting the cost and quality of court operations.

### Recommendations

2. Eliminate jurisdictional overlap between the justice of the peace and municipal courts and the general jurisdiction court by:
  - eliminating jury trials for first offense misdemeanor DUI cases filed in justice of the peace and municipal courts (see Appendix B);
  - eliminating all de novo appeals and requiring all contested matters, with the exception of preliminary hearings, in justice of the peace and municipal courts to be recorded (i.e., audio or video) and allow for direct review by general jurisdiction court;
  - decriminalizing planning/zoning and dog violations, with the exception of certain serious planning and zoning violations which would remain criminal offenses, specifically, building codes, and
  - requiring all state trial courts (i.e., justice of the peace and municipal courts) to audio, video, or stenographically record all proceedings.

### Methodology

Legislative changes are necessary to achieve the recommendations outlined above. Statutes concerning powers and duties of justices of the peace, trials de novo, and DUI offenses must be modified. Thus, the following statutes require modification:

- A.R.S. §9-462.01
- A.R.S. §22-112

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Rule changes will also be necessary. Rules relating to trials de novo and DUI offenses must be modified. The following rules require modification:

Issuance of an administrative order or clarification to an existing administrative order concerning audio and/or video recording all proceedings would assist the courts. The following administrative order is recommended:

Additionally, regulations concerning local city charters or ordinances related to planning and zoning and dog violations may need to be addressed along with the appropriate statutes or rules.

### **Implementation Information**

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## C. Judicial Qualifications

### Problem

Despite increased demands being placed on members of the judiciary and the availability of a more highly trained legal community from which to draw quality judges, judicial qualifications in Arizona have not changed since 1912, when civil cases were far less numerous and complex.

Nationally, trends indicate a correlation between increased civil litigation levels and judicial qualifications. In Arizona, however, judges in limited jurisdiction courts have begun handling more felony reduction cases and civil cases up to \$5,000 with no corresponding increase in qualifications.

### Recommendations

3. Increase judicial qualifications for State Trial Court Judges/justice of the peace and municipal courts to require:
  - Bachelor's degree from an accredited school;
  - Minimum age of 30 years;
  - Of good moral character;
  - No prior felony convictions nor any outstanding judgments or warrants in any jurisdiction at the time of election or appointment to office; and
  - Minimum competency established by: (1) passage of a basic legal competency test administered by the Arizona Judicial College or (2) completion of the course requirements of the Arizona Judicial College before appointment or election to office. *(NOTE: This recommendation should not be confused with current New Judge Orientation Programs or COJET requirements. The intent is for this recommendation to be an addition to existing programs.)*

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A grandfathering clause is also recommended for adoption. The recommended clause follows:

All justices of the peace, municipal court judges, and city magistrates who are holding office as such by election or appointment at the time of the adoption of this section shall serve or continue in office for the respective terms for which they are so elected or appointed or for their respective unexpired terms, and until their successors are elected or appointed and qualify or they are retained in office pursuant to Section \_\_\_\_\_ of this article; provided, however, that any justice of the peace or municipal court judge or city magistrate elected at the general election at which this section is adopted shall serve for the term for which that justice of the peace or municipal court judge or city magistrate is so elected or appointed. The continued existence of any office heretofore legally established or held shall not be abolished or repealed by the adoption of this article. The statutes and rules relating to the authority, jurisdiction, practice and procedure of courts, judicial officers and offices in force at the time of the adoption of this section and not inconsistent herewith, shall, so far as applicable, apply to and govern such courts, judicial officers and offices until amended or repealed.

## Methodology

Constitutional changes are necessary to achieve the recommendations outlined above. Constitutional provisions concerning the qualifications of justices of the peace must be modified. The following Constitution section requires review and/or modification:

### *TO BE IDENTIFIED AND ADDED*

Legislative changes are necessary to achieve the recommendations outlined above. All statutes concerning judicial qualifications must be revised. The following statutes require modification:

- A.R.S. §11-401
- A.R.S. §11-402
- A.R.S. §22-122

## Implementation Information

## E. JUDICIAL SALARIES

### Problem

Salaries for justices of the peace and magistrates are inconsistent across the state and are set according to formulas that may not accurately reflect actual responsibilities or accountabilities. For example, magistrate salaries are determined by each city council and may vary from a low of \$13,335 to a high of over \$100,000 annually. Justice of the peace salaries, meanwhile, are set by a complex formula that is susceptible to inaccuracy and abuse. For example, incorrect reporting of case filings can erroneously increase or decrease salaries; the linking of salary levels to law enforcement activity creates the appearance of a potential conflict of interest; violation types and methods of filing are inconsistently counted; and, the tying of justice of the peace salaries to the level of staff support may discourage overall efficiencies.

### Recommendations

4. Equalize salaries for all State Trial Court Judges/justices of the peace and magistrates by:
  - eliminating (repealing) the existing judicial productivity credit statute (i.e., A.R.S. §22-125);
  - compensating full-time State Trial Court Judges/justices of the peace and magistrates at a set percentage of a superior court judge's salary; and,
  - compensating part-time State Trial Court Judges/justices of the peace and magistrates at a percentage of a superior court judge's salary that is lower than the percentage established for a full-time justice of the peace or magistrate.

A grandfathering clause is also recommended. The recommended clause follows:

All justices of the peace, municipal court judges, and city magistrates of any court who are holding office as such by election or appointment at the time of the effective date of this law shall serve or continue in office for the respective terms for which they are so elected or appointed or for their respective unexpired terms,



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and until their successors are elected or appointed and qualify. The continued existence of any office heretofore legally established or held shall not be abolished or repealed by this law. The statutes and rule relating to the authority, jurisdiction, practice and procedure of courts judicial officers and offices in force, or which go into force, at the time of the effective date of this law and not inconsistent herewith, shall so far as applicable, apply to and govern such courts, judicial officers and offices until amended or repealed. *(NOTE: The language in this grandfathering clause will need to be modified to reflect salary, compensation, and benefits in lieu of judicial qualifications.)*

## Methodology

Legislative changes are necessary to achieve the recommendations outlined above. The statute concerning judicial productivity credits must be repealed and replaced with a new statute governing the salary levels of justices of the peace. The following statutes require modification:

- A.R.S. §22-125

## Implementation Information

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## E. JUDICIAL SELECTION

### Problem

Arizona lacks consistent, statewide judicial standards. This creates wide disparities in term lengths and methods for selecting judges (i.e., elected versus appointed). For example, while case law recommends that magistrates serve a minimum two year term, the actual length of terms varies--and may even be staggered--depending on the city charter/ordinance where the magistrate works. Meanwhile, municipal courts are appointed by city councils in all areas except Yuma, where both justices of the peace and municipal court judges are elected.

### RECOMMENDATIONS

5. Provide consistency throughout the judicial selection process and increase information available to appointing boards and/or voters by:
  - Modifying current selection systems for justices of the peace and magistrates/State Trial Court Judges to a merit selection system;
  - Eliminating partisanship inherent from the merit selection system;
  - Requiring merit selection panels to be established in those counties with populations over 250,000 by each city council for appointment of magistrates and each board of supervisors for appointment of vacancies for the office of justice of the peace. The presiding judge of the county has the ultimate responsibility for ensuring compliance with the merit selection process. The presiding judge or his designee shall chair the county merit selection panels. The merit selection panel members shall be appointed by the appropriate city council or board of supervisors. It is recommended that the state bar association appoint three members from the county and the appropriate city council or board of supervisors appoint five members. For boards of supervisors it would be recommended that there be one appointee from each county supervisorial district. Additionally, no more than three of the five city council or board of supervisor appointees and no more than two of the three state bar appointees shall be of the same political affiliation.

- Utilizing a simplified (short-form) Judicial Performance Review process for all justices of the peace and magistrates/State Trial Court Judges;
- Allowing and encouraging other 13 counties the opportunity to opt in and utilize the merit selection process; and,
- Establishing four year terms for all judicial officers.

### Methodology

Constitutional changes will be necessary to achieve the recommendations outlined above. Specifically, the method of selection for judges in counties with a population of 250,00 or more must be modified to include the appropriate limited jurisdiction court judges. The following sections will require modification:

- ARTICLE 6, § 32
- ARTICLE 6, § 35
- ARTICLE 6, § 37
- ARTICLE 6, § 38
- ARTICLE 6, § 39
- ARTICLE 6, § 40
- ARTICLE 6, § 42
- ARTICLE 6, § 43
- ARTICLE 6, § 44

Legislative changes may also be necessary to achieve the recommendations outlined above. Statutory sections on the election and term of office of a justice of the peace will require amendment. The following statutes require modification:

- A.R.S. §22-111

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## Implementation Information

Whether cities or towns have partisan or non-partisan councils, the merit selection panels should nonetheless have a "not-more-than-a-certain-number-partisan" membership requirement. This is an additional statement that the selection process should be on merit and not on political philosophies, partisan or non-partisan.

Merit selection panels would be comprised of five (5) members selected by the board of supervisors (one from each supervisor district) or city or town councils, not more than three of whom could be from the same political party, and three (3) members appointed by the state bar, not more than two of whom could be from the same political party. The presiding judge or his designee would chair each merit selection panel.

List of nominees sent by merit selection panels to the board of supervisors or city or town councils, not more than two of whom could be of the same political party.

The same "diversity" requirements for the superior court nominating commission would apply to the merit selection panels.

Board of supervisors would select twenty-five (25) of the state court judges and the cities/towns would be entitled to select not less than their present number of judges for the state court. This would be the minimum level of judicial staffing.

The presiding judge would recommend additional state court judges to either the board of supervisors or to the city or town councils. Approval of additional state court judges would be on recommendation of the board of supervisors or the city or town councils to and for the approval of the designated regional council (i.e., MAG, PAG, etc). If total state funding of the judicial branch were to occur, then approval would go to the governor as it now does for additional superior court judges.

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Terms for state court judges would be four years and would coincide with present terms. Merit selection would take effect on a date certain

Sitting judges would be grandfathered for the remainder of their present term whether elected or appointed. Elected judges would go directly to the retention ballot at the end of their term. Appointed judges would go through the merit selection process.

The merit selection panel would go into effect upon a judicial vacancy occurring.

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## F. STAFFING

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### Problem

Staff for Arizona courts is not effectively deployed, and the courts have no valid workload analysis to substantiate staffing needs or analyze the impact of shared staff support coming from city clerk, police, or finance departments. As a result, many limited jurisdiction courts are backlogged or unable to adhere to new statutes, rules or standards. Meanwhile, some other courts have more staff support than their workload requires.

### Recommendations

6. Acquire adequate staffing levels by:

- Conducting an in-depth workload analysis/design to determine the appropriate level of staffing in the State Trial Court. It is recommended that an outside consultant be hired to conduct a statewide staffing analysis and that the following elements be included in any analysis: staffing levels, functions, job descriptions, qualifications, and salaries. Additionally, the analysis should include all non-judicial staff; and,
- Allowing Presiding Judges in non-merit selection counties to appoint full-time, pro tem State Trial Court judges for specific terms not to exceed two years with a prohibition that such permanent employee would not be eligible for appointment or election to that office for two years following termination of employment and that an individual may not be appointed to such position if he/she has not served as a State Trial Court judge in the last two years. These appointed full-time, pro tem State Trial Court judges must meet the same qualifications as their appointed or elected counterparts and will be subject to review through the Judicial Performance Review process.

## **Methodology**

The following legislative modifications will be necessary:

- A.R.S. §22-121
- A.R.S. §22-123.

The issuance of an administrative order or clarification to an existing administrative order concerning the Presiding Judge's authority to appoint additional full-time, permanent judges will be necessary.

Additionally, an administrative, long-term change will be necessary to obtain workload designs for limited jurisdiction courts. Funding sources will have to be identified for consulting services and the appropriate procurement procedures must be followed. Procedures currently in place in the Administrative Office of the Courts should be adhered to in order to obtain grant funding and consulting services.

## **Implementation Information**

## F. TECHNOLOGY

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### Problem

Arizona courts do not have uniform automation systems. This fragmented system fails to use economies of scale in purchasing, makes it difficult to share information between courts, and slows the administration and enforcement of process or rule changes.

### Recommendations

7. Enhance court operations and promote the feasibility of open uniform automation systems by:
  - Implementing standards adopted by and projects recommended by the Commission on Technology regarding the advancing capabilities of automation, which shall include but are not limited to:
    - Establishing one filing system and one case number system in State Trial Courts;
    - Promoting and developing automation systems capable of supporting optical imaging; and,
    - Adopting and implementing case management systems, video conferencing, voice technologies, kiosks, and other available multimedia technologies as outlined in the "Briefing Papers" published by the National Center for State Courts.

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## **Methodology**

Administrative orders will be necessary to adopt the standards outlined above.

## **Implementation Information**

## **H. SECURITY**

### **Problem**

Limited jurisdiction courts throughout Arizona have non-existent or inadequate security systems. More felony criminal matters are being declined at the Superior Court level and result in misdemeanor prosecution in limited jurisdiction courts. Additionally, and more importantly, the increased jurisdiction and volume concerning orders of protection and other domestic violence matters are being handled in limited jurisdiction courts. These increases along with the potential for violence and lack of security mechanisms provides an unsafe working environment for many judicial employees.

### **Recommendations**

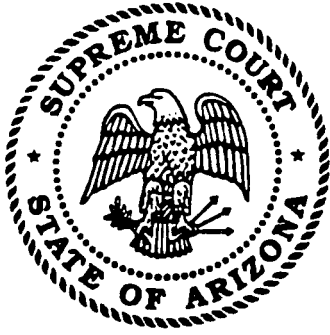
9. Enhance security and safety of judicial employees and the public by:
  - Developing security standards; and,
  - Establishing risk management/court security plans for each court, which should include sections on security, safety, and, property;

### **Methodology**

The issuance of an administrative order or clarification to an existing administrative order concerning court security and risk management will be necessary.

An administrative, long-term change will be necessary to develop and adopt both security standards and risk management/court security plans for each court in the state.

### **Implementation Information**



***Arizona Supreme Court  
Administrative Office of the Courts***

**TEMPE MUNICIPAL COURT  
Court Operational Review Evaluation**

**February, 1994**

***Prepared by staff from the Arizona Supreme Court's Administrative Office of the Courts  
April 12, 1994***



# **COURT OPERATIONAL REVIEW EVALUATION**

## **TEMPE MUNICIPAL COURT**

### **Executive Summary**

#### **PREFACE**

Court operational reviews are conducted by the Administrative Office of the Courts (AOC) to assist courts in complying with statutes, rules and court orders governing the administration and operation of the court. The situation in Tempe was highly unusual. AOC staff performed a full operational review of the Tempe Municipal Court and this report does cover the typical review areas such as court administration, cash and case management, facilities and security. However, numerous rumors, innuendoes and allegations of judicial misconduct and/or criminal activity were raised during the review. Staff have investigated those areas affecting court operations and in some cases have determined there is sufficient information to refer incidents to the State Bar, Commission on Judicial Conduct and Attorney General's Office for further investigation. In those instances we are not determining whether there was, in fact, judicial misconduct or criminal activity. Allegations of criminal activity raised during the review that didn't affect Court Operations were not investigated by the AOC review team but are being investigated by the Attorney General's office. Those activities are not included in this report.

#### **BACKGROUND**

Judge Stephen Mirretti, while Presiding Judge of the Tempe Municipal Court, projected an image to the public and city officials that he administered an innovative, well run and customer service oriented court. He participated in several statewide court committees and was the recipient for the Tempe Municipal Court of several state financial grants. However, publication of the November 1993 City of Tempe Organizational Review Team report, "The Report on the City Court," contradicted this image and indicated management and operational problems raised previously by a 1989 Arthur Andersen audit and a 1990 City of Tempe internal audit. Those audit reports had not been provided to the Maricopa County Presiding Judge nor to the Administrative Office of the Courts.

Mr. John Greco, Management and Budget Director of the Tempe Police Department, was appointed Interim Court Administrator by Judge Stephen Mirretti on January 17, 1994, based on a recommendation by the City Organizational Review Team.

Mr. Greco reported to work at the Court on January 24, 1994. From January 24 to February 3, Mr. Greco worked with Judge Mirretti and the Organizational Review Team to study the team's recommendations for Court reorganization. Concurrently, he interviewed Court staff and City personnel. According to Mr. Greco, the interviews revealed numerous rumors and allegations regarding mismanagement of the Court, misuse of judicial office and potential

criminal activity. On the morning of February 3, 1994, Mr. Greco summarized his findings for Judge Mirretti. The Mayor, City Attorney and the City Manager had already been briefed and they had an appointment to brief Honorable C. Kimball Rose, Presiding Judge of the County, on February 4. Judge Mirretti tendered his resignation on the afternoon of February 3, 1994.

On the afternoon of February 3, the AOC was notified by the Attorney General's Office of that office's investigation of Judge Mirretti. On the evening of February 3, 1994, the AOC was advised by the Attorney General's Office of Judge Mirretti's resignation. The Attorney General also pointed to problems in the operations of the Tempe Municipal Court. On the evening of February 3, the Attorney General and the Department of Public Safety took physical control of the Court facility. The AOC was contacted and an emergency operational review was scheduled for February 4, 1994.

On the morning of February 4, AOC staff arrived at the Court and security measures were implemented. The automation system was shut down and "view only" access was instituted for all Court records. Internal and external door locks were changed, and access to the court was restricted. On February 7, 1994, the City of Tempe hired Arthur Andersen & Co. to provide a financial audit of the Court because Andersen had conducted an audit at the Court in 1989.

On February 4, Supreme Court Justice Robert Corcoran, at the request of David Byers, the Administrative Director of the AOC, issued Administrative Order 94-8 (Appendix A) taking control of all books and records of the Tempe Municipal Court and giving constructive possession of those records to the Presiding Judge of the Superior Court of Maricopa County, the Honorable C. Kimball Rose, or his designees.

On February 7, Administrative Order 94-011, was filed by Judge Rose, assigning Court Commissioner Toby Gerst to special duty as Interim Presiding Judge of the Tempe Municipal Court. Commissioner Gerst served in that capacity until February 22, 1994. Commissioner Gerst provided administrative oversight, with specific attention to judicial matters, to court staff and judges. Tempe Municipal Court Administrative Orders were issued by Judge Rose at the request of Commissioner Gerst in matters of court arraignments, No. 94-01 and court files, No. 94-05 (Appendix A). In addition, Commissioner Gerst provided guidance and training to court staff and judges on ethics, the Judicial Code of Conduct, and court procedures.

On February 10, Judge Rose met with the Tempe City Council in Executive Session to inform the Council of the necessary operational changes and the status of the Court, the AOC review, and the pending appointments of an Interim Presiding Judge and an additional Interim Court Administrator to assist John Greco.

On February 14, Administrative Order 94-012 was filed by Judge Rose. The Order defined the sequence of background events beginning February 3, 1994, and provided direction to court staff modifying a "no contact with Stephen Mirretti" directive to allow Stephen Mirretti to complete documents necessary for his "out-processing" with the City of Tempe.

On February 22, Judge Rose and Judge B. Robert Dorfman of the Phoenix Municipal Court, assigned Judge Louraine Arkfeld of the Phoenix Municipal Court as Interim Presiding Judge of the Tempe Municipal Court, until completion of the selection and appointment process for a Tempe Municipal Court Presiding Judge. In addition to the appointment of Judge Arkfeld, Sheila Gooden from the Scottsdale Municipal Court was appointed to the Tempe Municipal Court as Interim Court Administrator, until completion of the recruitment and selection process for this position.

On February 25, Interim Presiding Judge Louraine Arkfeld placed Judge Robert Koch on administrative leave following a February 19, 1994, domestic violence incident. On April 5, 1994, Judge Rose also placed Robert Koch on administrative leave, consecutive to that imposed by Judge Arkfeld, following his arrest on April 1, 1994, for allegedly soliciting prostitution.

## **SUMMARY OF FINDINGS**

The review staff found indications of judicial misconduct, abuse of judicial office and possible criminal activity. Also identified were problems in the areas of administration, Court operations, cash management, personnel and security. In some instances immediate measures were taken to correct deficiencies.

The indications of judicial misconduct and criminal activity fall into five major areas:

1. Judge Mirretti was conducting private business and performing legal work while a judge, during Court time, using Court staff, equipment and resources.

The operational review confirmed that Judge Mirretti spent little or no time in court performing judicial duties. Prior to April 1993, Judge Mirretti spent less than 25% of his time on the bench. *Finding 1.*

Beginning in April 1993, Judge Mirretti ceased to perform any judicial functions in court. Staff estimate that 75% of his time was spent on private business dealings while he was in the Court. *Finding 1.*

Clients of the Judge and others involved with the Judge in business deals came to the court during business hours to meet with him on private business matters. *Finding 2.*

Judge Mirretti's former secretary reported that she spent 20% of her time typing promissory notes and other personal or private business documents for the Judge. *Finding 2.*

Insurance policies for clients with whom Judge Mirretti was doing financial planning, were found in the Court. It was reported to AOC staff that the Judge was named as the beneficiary of some of the policies and the clients, for whom Judge Mirretti had power of attorney, paid the premiums. *Finding 2.*

Mobile phone call records indicate Judge Mirretti was out of town or conducting personal business or in Las Vegas on days he reported to the City as work days or sick days. *Finding 2.*

Mobile phone call records appear to indicate that Judge Mirretti abused the use of City property for personal business. Although it is reported the Judge reimbursed the City for personal use of the phone, the level of usage was extensive for City property. *Finding 2.*

It was reported that Judge Mirretti was absent from the Court without reporting it. This occurred frequently and sometimes for long periods of time, including one period that lasted a month. *Finding 2.*



2. Suspicions were raised that Court funds were used by the Judge in his gambling and business dealings.

The AOC review staff found no evidence of missing funds. However, the lack of financial controls in the manual and automated systems was so severe it was not possible to determine if money was missing or not. *Findings 40-50.*

Arthur Andersen, in their review of the bond accounts, found a \$61,000 difference between the Court account reports and the City ledger. The Court and the City are working to reconcile the bond accounts. There is no indication that funds have been misappropriated. *Finding 45.*

3. Judge Mirretti negotiated, and entered into, contracts for Court services without going through any competitive procurement process. The Judge had business relationships with the contractors, and attorneys appearing in court, that were inappropriate and potentially criminal in nature. There are reports Judge Mirretti had investors in his gambling activities and some of the investors were doing business with the Court and receiving favorable treatment.

Two contracts appeared to provide a great revenue potential for the contractors without a corresponding benefit to the Court. The contracts were: TEND, Inc., engaged to provide hearing officer services; and the Arizona Consortium for Traffic Safety (A.C.T.S.), a certified defensive driving school.

The great revenue potential arose because of the way court procedures were set up by the Judge and contractors. Procedures directed a greater than usual number of defendants to the contractors thereby justifying contract increases or directly increasing revenue, and provided advantageous working conditions. *Findings 5, 6, 8, 9, 10, 11, 32, 48.*

The public defender did not provide documentation about hours worked and workload, as required in his contract. The Judge did not request the documentation. *Finding 11.*

The relationships among the vendors was overlapping. The public defender was also the statutory agent for TEND, Inc. A personal friend of the Judge is the person who formed TEND, Inc., to provide hearing officer services. The wife of TEND'S owners acted as the court reporter. There are allegations of various business and real estate dealings, and other investments among many of the parties.

A private defense attorney was provided daily with a list of DUI defendants generated by the Court. The attorney used the list to solicit clients. Although other attorneys had previously received the list, after implementing the new automation system, no other attorney requested or received it. No fee was paid for the list. The attorney who received the list had approximately 80% of the Court's DUI cases where the defendant had an attorney. It was reported the attorney had private business dealings with Judge

Mirretti and allegations were made by two attorneys that Judge Mirretti received financial inducements from the attorney who received the list. *Finding 3.*

4. Cases were handled improperly in the Court, particularly in the areas of DUI and traffic violations.

Defendant copies of two tickets were found in Judge Mirretti's office. Case files showed that five tickets issued to this defendant were dismissed. Court staff reported that hearing officers would check with Judge Mirretti on how to handle tickets for this defendant and Judge Mirretti would automatically dismiss them.

The case file for one of the five tickets indicated the defendant came to court, went to defensive driving school and had the ticket dismissed all in the same day. The state's defensive driving school database does not show attendance at defensive driving school for the defendant in that time period. *Finding 4.*

Hearing officers used blank citation books from the Police Department that had been pre-signed by a member of the City Prosecutor's office, to reduce criminal traffic charges to civil traffic charges. No prosecutor was present when this occurred. *Finding 7.*

Hearing officers conducted arraignments and hearings one-on-one in offices rather than in open court. The hearing officers did not give the defendants their rights, did not take pleas before asking about the facts of the cases and induced defendants to plead guilty by offering them a reduced fine for a plea of guilty that day. *Finding 34.*

An analysis of DUI dismissals showed that approximately 25% of DUI charges were dismissed, some to "dog at large" and "faulty horn" violations. *Finding 37.*

Ineligible defendants were routinely sent to defensive driving school to have their tickets dismissed. *Finding 10.*

5. Judge Mirretti had improper personal and business relationships with Court employees and City officials. It was reported by several employees who were involved that the Judge had very close personal relationships with several female employees. Certain employees were perceived by the other staff to receive favorable treatment because of their relationships with the Judge. Due in part to those relationships the problems in the court were allowed to continue without correction. The numerous personal and business relationships made it difficult to assess responsibility for all the problems in the court. In addition, Judge Mirretti engaged in activities that may be improper for a judge and are potentially illegal.

Judge Mirretti provided what appeared to be legal services to private clients. It is reported that wills and promissory notes for clients were in the Judge's private office and it is reported he had power of attorney for several clients. Judges are not allowed to practice law. *Finding 2.*

Several Court employees stated they gave the Judge money to invest for them. One of the employees borrowed the money by taking cash advances on credit cards. That employee was told by the Judge six months later that he was having financial difficulty and could not comply with the arrangements established in the promissory note. It appears the Judge was using his position to influence his staff to enter into financial and business dealings with him. *Finding 2.*

One City official, with responsibility for acting as liaison between the Court and City management, gave the Judge over \$150,000 to invest. *Finding 2.*

One employee, who invested with the Judge and who was reported to have had a personal relationship with the Judge, received a promotion, a large raise, and was allowed to work a preferential work schedule. *Finding 18.*

Judge Mirretti engaged in extensive gambling activities, which were well known in and out of the Court. It is reported he was backed by a group of investors, some of whom he was involved with in the Court. While the gambling was not illegal, the extent of it and the involvement of persons who came before the Court, city personnel and city officials, can be perceived to be improper for a judge. In addition, Judge Mirretti appeared to be gambling on Court time and using his reported success to influence staff and City employees to invest in his business dealings.

In addition to the judicial misconduct and potentially illegal activities in the Court, the review staff found serious problems in the operations and administration of the Court.

The amount of the fine and bond schedule was found to be twice as high as typical at other Maricopa County municipal courts. Defendants who in other cities would mail in the required fine, were likely to appear in court to seek recourse. Court procedures required the defendant to appear at the court facility to register for defensive driving classes rather than being permitted to register by phone. Hearing officers routinely dismissed or reduced charges without following proper procedures.

A poorly implemented automation system severely affected case processing, accounting and financial management. The automation system was funded in part by a grant from the Administrative Office of the Courts. The grant was properly used to implement the system, however the Court did not comply with the reporting requirements of the grant and the system, while capable of processing cases properly, was not used to its full extent.

The Court was not in compliance with the Arizona Supreme Court's Minimum Accounting Standards. There was a lack of automated and manual cash controls. Cash handling duties were not segregated. There was no accountability for receipt of payments, as all clerks received money at a counter with a single cash drawer. Control procedures for cash and checks were almost nonexistent. The Court's automation system was accessible to non-court personnel including independent contractors and attorneys. Court staff were permitted to change and backdate fines and fees.

The most serious procedural problems were corrected immediately by the review staff and interim appointees upon their arrival at the Court. Court reorganization continues with the assistance of the interim team. The following report addresses findings, recommendations, and progress to date.

At the time of the review, the Court did not have a FY 94-95 budget proposal prepared. The Interim Presiding Judge and the Interim Court Administrator prepared a budget request to present to the City Council in March. Included in the proposal was a funding plan for court reorganization, which was approved (Appendix B ).

## **SCOPE OF WORK**

The AOC review staff conducted a full review in the Tempe Municipal Court. Areas reviewed were:

- A) Administration
- B) Records Management
- C) Case Management
- D) Statistics
- E) Accounting and Cash Management
- F) Automation
- G) Facility
- H) Security

## **METHODOLOGY**

NOTE: Arthur Andersen & Co. was contracted by the City of Tempe to assist the AOC with the operational review of the Tempe Municipal Court. Their findings and recommendations are referenced throughout this report. The complete Andersen report is located in Appendix C.

The methodology used by the review staff included the following:

1. Individual interviews with Court staff members, Tempe Organizational Review Team staff, police department staff, City employees, contracted Court employees, and past Court employees;
2. Observation of Court staff, judges, and service providers during courtroom and clerk's office activities;
3. Statistical analysis and comparison of caseload reports, budget and personnel data from AOC reports;
4. Review of compliance with Arizona Revised Statutes, Arizona Rules, Administrative Orders, and Judicial Code of Conduct;
5. Review and analysis of Court service contracts;
6. Review of past audit reviews and recommendations;
7. Analysis of case files and records.

## **ADMINISTRATION**

### **Judicial**

**Finding 1:** The Presiding Judge served in two capacities, that of a sitting judge and that of Court Administrator. Each of these positions would normally be considered a full-time responsibility, given the high volume of cases handled by the Court. The staff reported that Judge Mirretti stopped sitting on the bench in the spring of 1993. Prior to that time Judge Mirretti spent less than 25% of his time on the bench.

#### **Recommendation 1:**

A full-time Court Administrator should be hired to serve in the administrative capacity, allowing the Presiding Judge to carry a caseload and be more involved with judicial activities. A Court Administrator would be instrumental in ensuring compliance with statutes, orders and rules, and improving the efficiency of court operations and case processing. Refer to Tempe City Organizational Review Team Report (Appendix D, ISSUE 4.1).

**Note:** Recruitment is currently being conducted by the City of Tempe to fill the position of Presiding Judge and Court Administrator. July 1, 1994, is the projected hiring date for both positions.

**Finding 2:** The Judge conducted personal business and provided what appeared to be legal services such as financial investment counseling to private clients in the Court, during Court hours, while serving as Presiding Judge. According to staff, approximately 75% of the Judge's time in the Court was spent working on personal business and providing legal and business services for private clients.

The Judge used Court equipment and required Court personnel to provide secretarial administrative support to assist in his personal business without reimbursement to the City. One Court employee reported that while serving as Judge Mirretti's secretary, she spent approximately 20% of her work day typing financial business contracts and promissory notes for the Judge. The secretary stated she also made numerous trips to the bank for the Judge.

Other Court staff reported they were routinely requested by the Judge to run personal errands to the bank, and to make deliveries to the private residences or businesses of Judge Mirretti's clients.

It was reported by Court staff that Judge Mirretti's clients frequently came into the Court to meet with the Presiding Judge on private business matters. The Judge was alleged to be the financial advisor for several of these clients. It was confirmed by staff that sums of money, from \$3,000 to over \$150,000, were provided to Judge Mirretti at the court to invest for clients. Life insurance policies and promissory notes for several clients were found in the Judge's private

office. It was also reported that clients for whom Judge Mirretti had power of attorney, paid the premiums or policies. Staff could not review these documents as they are in the possession of the Attorney General's Office.

A Court employee confirmed the Judge gave a promissory note in an amount exceeding \$150,000 to the Assistant City Manager whose duties included acting as City management's liaison with the Court.

Several Court employees also stated they gave the Judge money to invest for them. One of these employees confirmed that in December 1991, the employee took out a cash advance on a VISA card for \$20,000, which was given to the Judge to invest. The employee confirmed the investment was made because a former Court employee had made a similar investment with Judge Mirretti. Six months later, the same Court employee was told by the Judge that he was having financial difficulty and could not comply with the arrangements established in the promissory note.

Judge Mirretti had a reputation with Court staff and City employees of being a high stakes gambler. On numerous occasions he reported making frequent trips to Las Vegas and frequently mentioned his large winnings. Staff reported it was not unusual for Judge Mirretti to display large sums of money to staff on his return from the Las Vegas trips.

There are allegations that Judge Mirretti may have submitted time sheets to City payroll stating he was on sick leave or conducting Court business off site, when he was actually in Las Vegas. In addition, the City provided Judge Mirretti with a cellular phone to conduct Court business which he used for personal business, including frequent calls between Phoenix and Las Vegas. Both of these allegations have been reported to the City for verification. Although Judge Mirretti is reported to have reimbursed the City for his personal use of the telephone, the level of use was extensive. These activities appear to be improper and a violation of the Arizona Code of Judicial Conduct. It was also reported that Judge Mirretti was gone from the Court for long periods of time; once, for a month.

#### **Recommendation 2 a:**

**Personal business dealings between judges and court personnel should not be allowed. Policies and procedure regarding personal use of court property should be developed.**

**Judges should comply with the Arizona Code of Judicial Conduct; Canon 4a, d, e, and g: "A Judge shall conduct extra-judicial activities as to minimize the risk of conflict with judicial obligations. A Judge shall not engage in financial and business dealings that may be perceived to exploit the judge's judicial position. A Judge shall not engage in fiduciary activities by serving as executor, administrator or other personal representative which would interfere with the proper performance of judicial activities. A Judge shall not practice law."**

**Recommendation 2 b:**

**The Attorney General's Office should investigate the "investment activities" of Judge Mirretti to determine if any security laws have been violated and should determine exactly where monies given to Judge Mirretti for investment are.**

**Finding 3:** A private attorney was provided a court-generated list of DUI defendants for the purpose of soliciting clients. At the request of Judge Mirretti, a special computer program was written by the Court to satisfy the attorney's request. The Court did not use the list for any other purpose. This attorney handled approximately 80% of all the Court's DUI cases where the defendant had an attorney. After April 1993 no other attorney requested or was provided the list. No fee was paid for the list. There are also allegations this attorney was engaged in various financial investments with Judge Mirretti. It was reported by two attorneys that Judge Mirretti received financial inducements from the attorney. It was also reported Judge Mirretti offered to make the attorney's law partner a judge in the Tempe Municipal court.

*Judge Mirretti, in an interview conducted by the AOC review staff on March 25, 1994, stated he sought advice from the City Attorney on this issue and was told he could provide the attorney the DUI list. The Judge added that no fee was charged by the Court, as an appropriate fee for this service had not yet been determined by the City Attorney.*

*Note: The City Attorney was contacted by AOC staff on March 30, 1994, for a response. The City Attorney stated he did not recall the Judge asking advice regarding distribution of a DUI list or any other list of this nature, and did not recall any discussion regarding the establishment of a court fee for generating such a list.*

**Recommendation 3:**

**Court reports should not be routinely generated for individuals unless generated in the normal work of court business. If reports are generated a proper fee should be charged and the reports should be available to everyone.**

**Judges should comply with the Arizona Code of Judicial Conduct, Canons 3 and 4d: "A Judge shall perform the duties of judicial office impartially and diligently. A Judge shall conduct extra-judicial activities as to minimize the risk of conflict with judicial activities and shall not engage in financial or business relationships with those lawyers or other persons likely to come before the court on which the Judge serves."**

**Finding 4:** Defendant copies of two tickets were found in Judge Mirretti's office. Case files reflected that five tickets issued to this defendant had been dismissed. It was reported by staff that hearing officers would check with the Judge on how to handle these tickets. It appeared the Judge was automatically dismissing tickets for this defendant, and that for one ticket, Court records show the defendant came to court, saw a hearing officer, went to defensive driving



school and had the ticket dismissed, all on the same day. The state defensive driving school data base does not show attendance by the defendant in this time period.

*Judge Mirretti, in an interview conducted by AOC review staff on March 25, 1994, stated he was unaware of any tickets being automatically dismissed by the Court.*

**Recommendation 4:**

**Irregular handling of citations is not to be allowed. Employees should be encouraged to report questionable conduct to the Commission on Judicial Conduct.**

**Judges should comply with the Arizona Code of Judicial Conduct, Canons 2a, b and 3a: "A Judge shall avoid impropriety and the appearance of impropriety in all activities and perform the duties of judicial office impartially and diligently."**

**Contract Services**

**Finding 5:** Three contracts for Court services were negotiated by the Judge and were not subject to any competitive procurement process. Sole source justification was not documented. It was reported that each of the contractors is a personal friend and/or business associate of Judge Mirretti. Terms of the contract were not monitored for compliance.

The three contracts were with TEND, Inc., engaged to perform hearing officer services; the Arizona Consortium for Traffic Safety, (A.C.T.S.), a certified defensive driving school; and Bertrand Johnson, engaged to provide public defender services for individuals determined to be indigent under guidelines set by the Judge.

*Judge Mirretti stated he did not follow the City procurement process for personal service contracts due to his interest in procuring the highest qualified contractors, rather than the lowest bidder, which he did not feel the City procurement process provided.*

*Note: The City procurement process for personal services does not require selection of the lowest bidder. The process encourages but does not require obtaining several quotes from providers.*

**Recommendation 5 a:**

**Require all contracted Court service providers to compete for the contract through a competitive procurement process. Sole source justification should be provided if competitive process is not used. If the Court does not follow the City procurement code, it should establish or follow a comparable procurement code. Refer to Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.1.).**

**Recommendation 5 b:**

**The Administrative Office of the Courts should review the Supreme Court's orders regarding procurement and make appropriate adjustments to include municipal and justice of the peace courts.**

**Note: The Court terminated the TEND and A.C.T.S. contracts effective March 11, 1994. The public defender contract is under review by the Court. The City stated that future Court service contracts will be awarded through the RFP process.**

**Finding 6: TEND, Inc. was contracted to provide traffic hearing officer services, pro tem judicial services, and clerical services.**

**The cost of the TEND contract increased at a rate that outpaced caseload growth. During the time of decreasing caseloads, Court policies and procedures caused a higher percentage of defendants to see hearing officers, thus increasing TEND's caseload and the Court's contract costs. From FY 88-89 to FY 92-93 civil filings decreased by 36%, while the amount of the TEND contract increased from \$70,200 to \$160,000, a 128% increase.**

**In addition to the annual contract amount of \$160,000, the TEND contract provided for a payment of \$90.00 per trial docket. A trial docket was defined as an hour-long time slot with one or more trials set within the hour. The Court paid \$46,241 more than the base contract amount for these trial dockets during FY 92-93.**

**Recommendation 6:**

**The Court should establish procedures to allow staff to take pleas in traffic matters, and appropriately dispose of insurance, drivers license and vehicle registration tickets once defendants have presented proof they are in compliance. The Court may want to consider civil traffic hearing officer training for staff who perform these tasks. Copies of documentation should be put in case files to verify reduced fines and dismissals. Refer to Arthur Andersen & Co. Report for additional findings and recommendations regarding TEND, Inc., and TEND docket invoices (Appendix C), and Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.1).**

**Finding 7: Hearing officers used blank ticket books that had been signed by a City Prosecutor to reduce charges from criminal to civil charges. It was found that A.R.S. § 28-473, Driving on a Suspended License, a criminal violation, was routinely reduced to A.R.S. § 28-411 Driving with No License in Possession, a civil violation.**

**Recommendation 7:**

**Pre-signed tickets should be destroyed. The Court should not issue complaints on behalf of the City Prosecutor's Office. The City Attorney should review this issue with his staff and prevent future activities of this nature.**

**Note: This practice has ended.**

**Finding 8:** The defensive driving school, A.C.T.S., had office space in the Civil Traffic Division in the Court facility. Because of this arrangement, the school staff appeared to be working for the Court. The school had adequate working space with this arrangement, but Court staff did not. This also presented a security problem, as access to Court files and records was not secured or monitored by Court staff and Court staff were not present at the defensive driving school classes that were held after hours and on weekends in the courtrooms. In addition, the school did not pay fees for use of court facilities, during the day, or for after hours classes.

**Recommendation 8:**

**Require the defensive driving school to relocate to an office outside the Court. This will provide additional working space for the Civil Traffic Division and improve Court security. Refer to the Tempe City Organizational Review Team Report (Appendix D, ISSUE 3.2.).**

**Note: This recommendation was implemented, effective March 11, 1994.**

**Finding 9:** Traffic bond envelopes did not contain the phone number of the defensive driving school. Court procedures required defendants to appear at the Court facility to register for class rather than allowing them to register by phone, resulting in unnecessary inconvenience to the public and additional traffic and congestion in the Court.

*In the AOC interview with Judge Mirretti, the Judge stated he did not permit phone registration because a high default rate resulted with this procedure. He stated the Tempe rate was significantly lower than other courts because of his procedures.*

*Note: A review of default rates for a number of municipal courts, shows Tempe's rate is one of the lowest. However, Chandler Municipal Court which allows both telephone and in person registration for defensive driving school has a lower rate. Many features go into the default rate and the rate cannot be tied solely to the method of defensive driving school registration (Appendix E).*

**Recommendation 9:**

**Develop a new bond envelope with the phone number of the defensive driving school.**

**Note:** A new bond and fine schedule has been developed. Bond envelopes have been printed and distributed. The bond envelope now includes defensive driving school phone numbers and phone registration instructions (Appendix F).

**Finding 10:** A.C.T.S. conducted traffic survival school (TSS) for high risk offenders under the name of Desert Star. Motor Vehicle Department (MVD) records showed Desert Star as an MVD certified TSS school. Desert Star is included with other MVD certified traffic survival school providers on a list mailed to defendants when they are notified of TSS attendance requirements. Referrals to traffic survival school are normally ordered by MVD as a penalty or condition of license reinstatement pursuant to A.R.S. § 28-446 (Appendix G).

TEND hearing officers court-ordered attendance to Desert Star as a way to dismiss charges for ineligible offenders. Many of the TSS students were repeat offenders who were not eligible for defensive driving school because they had attended defensive driving school within the last 24 months. Desert Star charged defendants \$150 to attend TSS. Pursuant to A.R.S. § 28-446e, a government agency, corporation or other individual that conducts TSS classes cannot charge a fee greater than \$25 (Appendix G).

During the period January-December 1993, Tempe Municipal Court had 10,000 defendants attend defensive driving school. Of that number, 2,000 were court-ordered. In comparison, during the same period Phoenix Municipal Court had 36,000 defendants attend defensive driving school, of which six were court-ordered.

*Judge Mirretti, in the AOC interview, stated his opposition to the 24 month eligibility requirement and his interpretation of the intent of the law in this regard which he believes allows attendance more frequently.*

*Note: Judge Mirretti was Chairman of the Court's Defensive Driving Committee, which developed the policies and procedures of the program. He was aware the legislative intent of the statute was to prohibit attendance at defensive driving school more than once every two years. In addition, the AOC sent out a letter in November 1993 reminding courts that the procedure of court-ordering ineligible defendants to defensive driving school for dismissal of tickets was prohibited (Appendix H).*

**Recommendation 10:**

**Refer to Arthur Andersen & Co. Report, Traffic Survival School (Appendix C).** The Tempe Court Municipal should immediately stop sending students to TSS for the purpose of dismissing charges. Tempe Municipal Court should stop charging \$150 to attend TSS and the Court should no longer receive fees for defendants attending TSS.

**Note:** Referrals to Desert Star have ceased.

**Finding 11:** The Court contracted with one attorney to provide indigent defense services. Hours worked on cases and caseload documentation were not provided to the Court as required by contract and were not requested by the Court.

The Attorney General's Office also reported that the public defender, in addition to being a personal friend and business associate of Judge Mirretti's, was the statutory agent for TEND, Inc., who provided the hearing officers. Hearing officers were responsible for hearing misdemeanor cases which created a conflict of interest for the public defender, who was also the legal authority for the hearing officers (See also Finding 37.).

*Judge Mirretti stated the public defender did provide the requested documentation to the Tempe Organizational Review Team. Follow-up with the Court and the Tempe Organizational Review Team revealed no documentation.*

**Recommendation 11:**

**Use a competitive procurement process to contract for indigent defense services or provide sole source justification. Monitor caseload of the public defender and require the public defender to provide monthly reports.**

**Note: Caseload monitoring procedures have been implemented and the public defender is now required to provide monthly reports. An RFP process has been initiated. Refer to Arthur Andersen & Co. Report and public defender contract (Appendix C). Refer to the Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.1.).**

**Administrative Fees**

**Finding 12:** The fine and bond schedule was found to be twice as high as eight other Maricopa County municipal courts reviewed. The high bond amounts often caused defendants to come into Court to request a hearing if they needed time payments, rather than mailing in the fine amount. It was reported that police officers were hesitant to write citations due to the high fine amounts.

**Recommendation 12:**

**Review fine and bond schedules used in other comparable municipal court jurisdictions. Develop a new fine and bond schedule appropriate for the Tempe Municipal Court.**

**Note: The Court initiated this process effective March 11, 1994. The new bond schedule reflects fines comparable to other Maricopa County municipal courts (Appendix F).**

**Finding 13:** In addition to the defensive driving school fee, the Court charged a \$30 administrative fee for court-ordered defensive driving school attendance. A daily accounting was made by the Court of the court-ordered fee, but no daily accounting was made by A.C.T.S. for the number of defendants who were court-ordered, thereby frustrating accurate reconciliation.

In 1990 the legislature, at the request of the courts, standardized and streamlined court fees for all levels of court. In 1993 the legislature, at the request of the courts, standardized and streamlined surcharges on fines. The intent of those activities was to create consistency in the fees and surcharges charged by the courts.

**Recommendation 13:**

No administrative fees should be charged for attendance at court-ordered defensive driving class. A strict daily accounting should be made of all monies collected by the Court.

**Note:** The second offender, court-ordered driving school procedure was abolished effective March 11, 1994, with the termination of the A.C.T.S. contract. Refer to Arthur Andersen & Co. Report, Driving School Case File Documentation (Appendix C).

**Finding 14:** When a warrant was issued, a warrant fee in the amount of \$100 was set by the Court. The warrant fee applied regardless of whether the warrant was served. With the exception of the Phoenix Municipal Court, no warrant fees are in effect in other municipal courts of similar size. The \$25 warrant fee charged in the Phoenix Municipal Court was set by the Phoenix City Council.

**Recommendation 14 a:**

The Court cannot set a warrant fee and should eliminate it. There is some question as to whether city councils can establish such fees or if the legislature has precluded this.

**Recommendation 14 b:**

The Administrative Office of the Courts should determine if city and county legislative bodies, and/or individual courts have the authority to set administrative fees.

**Recommendation 14 c:**

The legislature should explore setting statewide standard administrative fees for this kind of activity.

## **Fines Administration**

**Finding 15:** The Fines Administration Division collected outstanding fines and fees for Criminal Division cases but did not collect fines for the Civil Traffic Division cases. The Court failed to develop and enforce clear, effective procedures to collect fines and fees owed for Civil Traffic Division cases. The Fines Administration Division was staffed with two employees, however only the Fines Administrator conducted defendant interviews, and if the Fines Administrator was out of the office, defendants were required to return at another time.

### **Recommendation 15:**

Civil Traffic Division cases should be added to the scope of duties of the Fines Administration Division. The second Fines Administration employee should be trained to conduct interviews. The Fines Administration Division should be open during all court business hours. Refer to the Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.5.).

**Finding 16:** The Fines Administration Division did not execute warrants for noncompliance. Instead, the division passed noncompliance data to the Criminal Division for action. The delay in issuing warrants resulted in a reduction in fines collections.

### **Recommendation 16:**

Cases referred to the Fines Administration Division should be processed by that division and all cases should be monitored until final satisfaction of judgment or sentence. The Court should assign additional staff to assist the Fines Administration Division with clerical follow-up.

**Finding 17:** Accounts receivable were not posted in a timely manner, frequently requiring collections staff to track down payments from clerks and request that they be posted. The AOC review staff discovered several desks with in-baskets full of unprocessed payments.

### **Recommendation 17:**

Limit the number of people who open the mail and endorse and post payments. Identify backup staff to provide this function in the event a clerk is not available. Receivables should be posted daily in accordance with the Minimum Accounting Standards, Section E, and the information should be transmitted to the Fines Administration Division.

### **Staffing and Supervision**

**Finding 18:** It appeared that in some cases the Judge hired Court and judicial employees who were personal and business acquaintances. Staff reported in these situations there appeared to be favoritism given to these employees. As an example, one employee was promoted to another position in the Court with a large salary increase and was granted permission by Judge Mirretti to work one day per week at home rather than in the Court. No other employees were permitted a similar work schedule.

#### **Recommendation 18:**

**Employees should be treated in accordance with a court employee personnel policy or Judicial Merit rules.**

**Judges should be in compliance with the Arizona Code of Judicial Conduct, Canon 3c: "A Judge shall diligently discharge the Judge's administrative responsibilities without bias or prejudice and a Judge shall require staff, court officials and others subject to the Judge's direction and control to observe the standards of fidelity and diligence that apply to the Judge and to refrain from manifesting bias or prejudice in the performance of their official duties."**

**Finding 19:** There was no Policies and Procedures Manual. The Judge held sporadically scheduled one-on-one meetings with the three supervisors, resulting in inconsistent dissemination of information. The Court lacked a formal method of communication, resulting in incorrect and inconsistent policies and procedures.

#### **Recommendation 19:**

**Develop a Policies and Procedures Manual. Use of the manual will promote consistency and uniformity in procedures and simplify training for Court staff. Promote teamwork, professionalism and understanding of the Court's mission through regularly scheduled staff meetings and training sessions. Expand the scope of supervisory authority to include supervision of contractual employees.**

**Lines of communication should be defined and staff should be encouraged to communicate with each other, the judges and the public. When possible, staff should participate in decisions to change Court procedures. Feedback from staff will ensure smooth transitions as Court operations change.**

**Finding 20:** There was no delineation of duties in the clerk's office in the Criminal and Civil Traffic Divisions. One person served as supervisor for the clerks in both divisions.

**The clerks lacked an identifiable work structure. They randomly responded to phone calls, replied to requests for continuances, staffed the front desk and entered computer data.**



**Recommendation 20:**

There should be two clerk supervisors, one for criminal and one for civil traffic. Duties should be clearly defined. The Court should establish a fixed schedule for clerks to work at the front counter.

**Training**

**Finding 21:** Clerks were not cross-trained and work became severely backlogged when certain clerks were absent.

**Recommendation 21:**

The Tempe City Organizational Review Team and the 1989 Tempe Municipal Court study by Arthur Andersen & Co. recommended that "cross-training is encouraged to make other individuals aware of co-workers' job tasks and provide back-up in case of absence." The AOC review staff concurs with this recommendation and suggests the Court develop a cross-training program for Court clerks in the Criminal and Civil Traffic Divisions. Schedules should be rotated among the clerks to provide cross-training for all clerks.

**Finding 22:** The Court received current documentation and information from the AOC, MVD, and other agencies, but the information was not circulated to staff.

**Recommendation 22:**

Court information should be circulated to staff. A routing slip should be attached to documents to ensure all clerks receive new information. The Court supervisors should compile a reference book with separate categories for statistics, MVD, traffic, etc., to organize the information received. The reference book should be in a readily-accessible location. The reference book should be used as a reference guide for staff.

**Finding 23:** Staff maintained that COJET classes were held on an erratic schedule. Staff did not believe they have had sufficient training in ethics, law and court procedures.

**Recommendation 23:**

The Court should consider conducting on-site COJET classes in small groups to minimize time away from the Court and expense to the City of Tempe. Staff should be given an opportunity to request topics of interest for COJET credit.

**Note:** During the period of February 8 through February 20, 1994, COJET classes were conducted for Court staff by Commissioner Toby Gerst, Interim Presiding Judge. Daily seminars were scheduled on Ethics, Introduction to the Justice System and the Order of Trial. All Court staff are now current on Ethics training requirements in accordance with the Supreme Court administrative order.

## **STATISTICS**

**Finding 24:** An analysis of the statistics the Court submitted to the Supreme Court for the years 1991 through 1993 revealed significant variations and inconsistencies in filings, dispositions, pending cases and civil traffic hearings. During this period, the statistical corrections in various categories ranged from 1 to 6,477, with corrections in the hundreds and thousands being the most frequent. Court staff attributed most verifications and inconsistencies and the number of statistical corrections to "computer glitches" in their new automated system. These statistics, with computed variations, are in Appendix I.

### **— Recommendation 24 a:**

The Court needs to regain control over its statistical reporting process; erroneous reports with huge statistical corrections do not support administrative decisions as they should. The Court needs to implement a case management process supported by accurate computer programming to assure the integrity of the statistical reporting process through an audit trail of documentation.

### **Recommendation 24 b:**

To verify the "computer glitch" hypothesis, the Court should undertake an audit of its own to verify statistics produced by the computer system. If the system is producing erroneous data, it should be corrected. If the origin of the inaccurate information is the way data is entered into the system, then procedures to assure correct data entry should be developed and implemented.

## **RECORDS MANAGEMENT**

**Finding 25:** The Court filing system is inadequate and storage space is too small to accommodate the files which are filed both alphabetically and numerically. Case files are frequently misfiled and difficult to locate.

### **— Recommendation 25:**

The Court should develop a centralized filing area in order to provide access to Court case files. Closed and pending cases should be filed separately. The Court

should consider a check-out system such as out cards or log sheets for case files removed from the filing area. The Court should assign court clerks to the filing area to monitor this function. The bar code capability in the automation system could be activated to accomplish this. Refer to Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.2.).

**Finding 26:** The Court automation system contains incomplete case information. Clerk time is spent pulling case files in order to get necessary information to assist the public and others.

**Recommendation 26:**

Errors in the automation system should be corrected to ensure that proceedings are accurate. A physical inventory of pending cases should be conducted to provide correct information on case status. The required Supreme Court statistical information can be verified and the Court can make statistical corrections where needed.

**Finding 27:** The court docket number is difficult to identify on court case files because large and small numbers are placed on file tabs, and while bar codes have been placed on the files, they are not used.

**Recommendation 27:**

Court case files should be marked for easy identification by case type, party names, docket numbers and case status. The Court should continue to use docket numbers in order to identify filing date and case types, and should either use the bar code capability or remove bar codes from files.

**Finding 28:** Court case dockets and proceedings were analyzed for corresponding entries by reviewing the physical files and the automated case history screens. Case information was incomplete in both areas. Some entries were found in the case files but not entered into the computer, while other information was found entered into the computer but not in the case file. Judges were not completing the appropriate paperwork and were not documenting proceedings. Clerks were often left to interpret proceedings when entering case history in the automated system, and could not identify the judge assigned to the case. Reconstruction of case activity was difficult.

**Recommendation 28:**

The Court should require documentation of proceedings and completion of appropriate paperwork by judges on assigned cases. In addition, judges should sign and/or initial all required forms and proceedings at the time of ruling or sentencing.

Docketing procedures and standards should be established to ensure that staff properly docket all case proceedings and that dockets are kept current. (For traffic case requirements, see A.R.S. § 28-1061 and Rule VI, Rules of Procedure in Traffic Cases.)

**Finding 29:** The filing system storage area in the Civil Traffic Division is crowded. Case files are stored in open filing shelves located in hallways, leaving very little room for staff to pass through and creating severe congestion for personnel searching through files.

**Recommendation 29:**

Case files should be removed from hallways in the Civil Traffic Division in order to make the office area accessible. Additional space for shelving and storage for closed cases is needed (See also Finding 55.).

**Finding 30:** The Court is not following the Arizona Supreme Court Records Retention Schedule.

**Recommendation 30:**

The Court should follow the Arizona Supreme Court's Record Retention Schedule. Records that can be destroyed according to the retention schedule should be destroyed. Destruction of case files should be calculated from the date the sentence is completed and/or the judgments have been satisfied. Records that must be retained but are not often used could be stored off-site to minimize storage space. The automation system capabilities should be used to assist in identifying records to destroy and store.

## **CASE MANAGEMENT**

**Finding 31:** The Court does not have an effective calendar management system. This results in erratic use of the judges' time. There are moments of frantic activity interspersed with periods where judges appear to have little to do.

**Recommendation 31:**

The Court should use the automation system to establish a court calendar to manage cases more efficiently. The Court should establish and implement a case assignment system, which should include a written policy. A case assignment system is defined as the manner in which cases are assigned to judicial officers. A case assignment system is necessary to schedule events in a timely manner, maintain the court's control over cases and assume judicial responsibility and maintenance of cases. The two most popular case assignment systems are individual and master calendar

systems. Under an individual calendar system, a case is assigned at the time of filing to one of the judges on the court. Under a master calendar system, when a case is filed with the court it goes into a pool of cases awaiting further action. Hybrid systems, team assignment systems, random assignment systems, and other systems also exist.

**Finding 32:** All defendants appearing for traffic arraignment were directed to see a hearing officer. Clerks were not allowed to take pleas on traffic cases. As long as a plea is made in writing and signed by the defendant pursuant to Rule VIII(b), Rules of Procedure in Traffic Cases, or Rule 11(a), Rules of Procedure in Civil Traffic Cases, traffic case pleas do not have to be made in open court. By not allowing clerks to take pleas in traffic cases, the Court unnecessarily increased the amount of work directed to the hearing officers.

**Recommendation 32:**

The Court should carefully review the Rules of Procedure in Traffic Cases and the Rules of Procedure in Civil Traffic Cases and develop procedures and forms necessary for clerks to take pleas in traffic cases to lessen the demand for hearing officers at the Court. In instances where defendants plead not guilty or not responsible, the clerk should set the case for a traffic hearing before a hearing officer or judge.

**Finding 33:** Both traffic case arraignments and hearings were scheduled Monday through Friday from 9:00 a.m. to 4:00 p.m. with no specific times set for individual defendants. Court supervisors had difficulty planning work assignments because the flow of defendants through the Court was erratic. During the time of the review, the lobby was crowded with people waiting up to several hours to see the hearing officers.

**Recommendation 33:**

If clerks are allowed to take pleas in traffic cases as recommended above, the traffic case arraignment schedule could remain as before. Fixed days and times can be established for traffic hearings, thus enabling the Court to better manage the calendar and flow of defendants into the Court.

**Finding 34:** It was reported that the hearing officers conducted traffic arraignments in private and asked defendants "what did you do" without first giving them the opportunity to plead. It was also reported after the defendants explained what they had done in a civil traffic matter, the hearing officer offered the options of pleading responsible or not responsible, but said if they pled responsible that day the fine would be reduced. This procedure would be considered an inducement to plead responsible and a violation of Rule 11(a), Rules of Procedure in Civil Traffic Cases, which states the civil sanction for a civil traffic violation admitted by the defendant should be the amount listed in the court's deposit schedule for the civil traffic violation.

**Recommendation 34:**

The Court should examine their procedures to assure no inducements are offered to influence pleas and assure that civil sanctions imposed on pleas of responsible are those sanctions listed in the deposit schedule.

**Finding 35:** A review of Court case files showed incomplete financial statements and affidavits for out-of-custody defendants who requested counsel. The Court's findings of indigence were frequently made without obtaining financial information from defendants.

**Recommendation 35:**

The Court should use the authorized fee waiver forms and follow the procedures as defined in Supreme Court Administrative Order #93-3, dated January 15, 1993. The Court should establish guidelines to ensure that judges follow correct procedures for assignment of counsel for indigent defense purposes.

**Finding 36:** The frequency of continuances granted and the lack of a continuance policy caused delay in the judicial process and a backlog of the Court's docket. Court calendars and case review showed that approximately 53% of all cases scheduled for pretrial and trial were continued with no documentation of good cause. Case files reflected that judges signed "granted" or "denied" next to their initials on motions without stating a reason. Several case files showed motions to continue filed after appearance dates. Continuances were granted by telephone and by fax without a docket entry or case file notation.

Approximately 30-40 cases per week were continued by one defense attorney who represented approximately 80% of the defendants cited into the Tempe Court for DUI (see Finding 3).

The public defender appeared once a month for pretrial conferences. Approximately 25-30 of these cases were continued each month with an average of three continuances per case. During pretrial conferences, the public defender met with a City Prosecutor to determine which cases should be set for trial. Some cases involved plea agreements and were scheduled for sentencing. Cases that were not scheduled for sentencing or trial were routinely and automatically continued by the public defender and the City Prosecutor.

**Recommendation 36:**

The Court should establish a clear continuance policy. Continuances should not be granted except upon verified and written motion and a showing of good cause. The Court should establish a standard minute order form to be used to facilitate caseload management. All cases should be rescheduled to a date certain. Refer to Arthur Andersen & Co. Report, Public Defender File Review (Appendix C), and Tempe City Organizational Team Report (Appendix D, ISSUE 5.1).

**Finding 37:** An analysis of DUI dispositions showed that approximately 25% of DUI charges were dismissed. Dismissals often included plea agreements to lesser charges. Some records showed DUI's dismissed and defendants pleading guilty to "dog at large" or "faulty horn" violations. Comparatively, the Scottsdale Municipal Court has a DUI dismissal rate of approximately 5%.

**Recommendation 37:**

The Presiding Judge should work with the Court Administrator, City Prosecutor's Office and the police department to evaluate DUI dispositions, particularly dismissals. Though judges have independent judicial discretion to rule on cases, plea agreements should be reviewed carefully. Patterns of improperly issued complaints should be discussed with the police department.

**Finding 38:** The Court was delinquent in processing civil traffic default cases. For example, the Court was approximately three months behind in notifying MVD to suspend licenses for those people who failed to appear after receiving civil traffic violations.

Orders To Show Cause had not been issued since October 1993 for juveniles who failed to comply with Court orders. Failure to Pay and Failure to Appear warrants and complaints had not been issued since November 1993.

**Recommendation 38:**

The Court should comply with A.R.S. § 28-1061A; A.R.S. § 28-1061B; and Rule VI(b), Rules of Procedure in Traffic Cases, by recording and reporting dispositions of traffic cases to MVD within ten days of entry of judgment or disposition.

The Court should become current in issuing Orders To Show Cause and warrants. Cases should be monitored and orders issued within ten days of default. All cases should be monitored through satisfaction of judgment.

**Finding 39:** The Jury Commissioner provides the Court a monthly list of names with 200 prospective jurors. During the review AOC staff found a complete jury list in plain view in a trash can. The list included names and addresses and biographical information of jurors.

**Recommendation 39:**

To ensure the confidentiality of juror records, jury information should be kept confidential. The Court should keep all jurors' home and business telephone numbers and addresses confidential unless good cause is shown to the Court which would require such disclosure. Jury lists and biographies should be shredded prior to disposal.

## **ACCOUNTING AND CASH MANAGEMENT**

**Finding 40:** The Court was not in compliance with the Minimum Accounting Standards, Arizona Supreme Court Administrative Order 93-52. On December 10, 1993, the Presiding Judge had signed and submitted the Compliance Checklist certifying compliance. However, AOC staff found serious cash control and cash management problems particularly in the areas of segregation of duties, reconciliation of monthly bank accounts, cash management and check endorsement.

### **Recommendation 40:**

The Court should comply with Administrative Order 93-52. The Court should establish written policies and procedures to ensure compliance. The Court Administrator should ensure the Court is in compliance with the Minimum Accounting Standards by July 1, 1994, task #41-46, of the Organizational Review Task Chart (Appendix J) and the Tempe City Organizational Review Report (Appendix D).

**Note:** Under the direction of the Interim Presiding Judge and the Interim Court Administrator, the Court has completed many of the accounting and cash handling recommendations identified by AOC staff during the review.

**Finding 41:** A poorly implemented automation system allowed staff to backdate and change payments with no audit trail. The Court's contractors and attorneys were also allowed the same access to the automated system.

### **Recommendation 41:**

The number of staff members who are permitted to make payment changes should be limited. The Court should establish a policy requiring Court supervisor approval for changing or backdating payment records. See Organizational Review Task Chart (Appendix J) and the Tempe City Court Organizational Review Team Report (Appendix D).

**Note:** The Court has completed an approval process for back-dated payments.

**Finding 42:** The Court maintains no method of tracking accounts receivable. The automation system has a feature to provide this function, but the function has not been activated.

### **Recommendation 42:**

The Court should establish procedures to monitor monies owed to the Court. The automation system should automatically track the status of accounts receivable for each party. If possible, delinquent notices, Orders to Show Cause and warrants



should be automatically issued. The Court should establish accounts receivable tracking as a high priority and work with the City Management Information Systems Department (MISD) to accomplish this by January 1, 1995.

**Note:** The Court has initiated a manual system for tracking outstanding fines.

**Finding 43:** Checks accepted by the Court are not restrictively endorsed at the time of receipt. All clerks are permitted to open the mail and receipt money. Frequently, other work takes precedence over endorsing receipting and depositing checks on a timely basis.

**Recommendation 43:**

Checks should be endorsed immediately upon receipt. The Court should limit the number of people who open the mail and who have access to the cash drawer. In accordance with the Minimum Accounting Standards, persons who open the mail and receipt the money should not deposit the money. See Organizational Review Task Chart, task #44 (Appendix J).

**Note:** The Court is implementing a policy to restrictively endorse checks when received.

**Finding 44:** Unclaimed bonds were not handled or processed in a timely manner. Pending bonds were not monitored and reconciled on a monthly basis. Bond refunds and forfeitures were initiated by public request rather than by Court procedure.

**Recommendation 44:**

The Court should attempt to reconstruct pending bond information and conduct scheduled bond forfeiture hearings as necessary. AOC staff concur with the Arthur Andersen recommendation that discrepancies between Court bond records and City records be reconciled. Refer to Arthur Andersen & Co. Report, Bonds Payable Reconciliation (Appendix C).

**Finding 45:** Arthur Andersen & Co. in reviewing the Court bond account, found that as of January 31, 1994, the City's general ledger account reported \$61,990 more than the Court computer system. This discrepancy has not been reconciled.

**Recommendation 45:**

The AOC concurs with the Arthur Andersen & Co. Report recommendation regarding bond reconciliation. The Court should go through each file where bonds were posted and verify the detail on the Outstanding Bond report. The Bond Liability account should be reconciled monthly, along with cash received and cash

**disbursed. Refer to Arthur Andersen & Co. Report, Bonds Payable Reconciliation (Appendix C).**

**Finding 46:** From September 1992 to November 1993, the Court correctly assessed the \$40 surcharge on DUI fines for the Alcohol Abuse and Treatment Fund (AATF), collected \$21,399, deposited it and reported it to the City Treasurer. The City Treasurer failed to send it to the State Treasurer.

In October 1993, the Court assumed the task of preparing the monthly State Remittance Reports. While preparing for surcharge consolidation in November 1993, the Court detected that the \$21,399 was still in the City treasury earmarked for AATF. The Court prepared a State Remittance Report and sent the money to the State Treasurer for deposit in the AATF.

**Recommendation 46:**

**Court staff should be commended for identifying and correcting the City Treasurer error. This function should remain with the Court and the Court should continue to prepare the monthly State Remittance Reports for the City Treasurer. Refer to Arthur Andersen & Co. Report, Allocation of Funds (Appendix C).**

**Finding 47:** Court staff handled defensive driving school money without an audit trail. School money, collected by school staff, was put in a bag at the end of the day and given to Court staff to place in the Court safe.

**Recommendation 47:**

**If a private vendor is housed in the Court facility the Court should establish procedures to ensure a proper audit trail, to separately secure Court funds and vendor funds, and to prevent unauthorized access to or commingling with Court funds. Refer to Arthur Andersen & Co. Report, Defensive Driving—Cash Management (Appendix C).**

**Note: No private vendors are now housed in the Court Facility.**

**Finding 48:** The Court and the defensive driving school shared a VISA machine for financial transactions. The Court paid all the VISA machine expenses, at a cost of approximately \$1,000 per month, even though 80% of usage was by the defensive driving school.

*Judge Mirretti's interview response to AOC review staff was the Court benefitted by this arrangement due to the high volume business of the school which qualified the Court for a lower service rate on the VISA account.*

**Recommendation 48:**

The Court should require private vendors to obtain their own VISA processing equipment and vendor number to ensure an accurate audit trail. Refer to Arthur Andersen & Co. Report, *Defensive Driving--Cash Management* (Appendix C).

**Note:** This practice has now been implemented.

**Finding 49:** A sampling of case files by Arthur Andersen & Co. revealed repeated errors in surcharge calculations.

**Recommendation 49:**

The Court should ensure that it follows the surcharge calculation procedures outlined in the Arizona Supreme Court's "Consolidated Surcharge Booklet," by periodically recalculating the surcharge amounts and reviewing the supporting case documentation. Refer to Arthur Andersen & Co. Report, *Allocation of Funds* (Appendix C).

**Finding 50:** Court staff repeatedly brought concerns regarding the lack of cash controls to the attention of the Court supervisors and the Presiding Judge. No action was taken.

**Recommendation 50:**

The Court should provide written policies and procedures on handling financial transactions. Court staff should be encouraged to provide feedback and suggestions for continuous improvement. The Court should be receptive to any concerns staff bring to management regarding the Court's financial operations.

## **AUTOMATION**

**Finding 51:** The Court automation system was not secure on February 4, 1994, the day the AOC review was initiated. Non-court personnel, including independent contractors and attorneys, had access to Court case dockets and financial records. Court clerks shared user ID's and passwords. Clerk ID's did not accurately reflect the person actually entering data and completing transactions because one person logged onto two terminals in the morning and left the terminals logged on for others to use throughout the day.

**Recommendation 51:**

The Court and Tempe's MISD should take steps to secure the Court's automation system including changing passwords quarterly.

**Note:** AOC staff worked with the City of Tempe MISD to implement immediate changes to improve audit trails and improve system level security. By February 25, 1994, the following tasks were completed.

- ▶ The security program in the application was modified so individual users are responsible for updating their own passwords on a regular basis.
- ▶ The Court implemented a process which creates an audit trail when adding, changing or deleting users and/or passwords from the system. Although the Court supervisor can still set up application users, the Court Administrator or Presiding Judge will be required to authorize such changes. Changes will be documented and a log will be kept for audit purposes. The Outstanding Judicial System Tasks memorandum includes a description of tasks to be completed and the status of the tasks as of March 8, 1994 (Appendix K).

**Finding 52:** Court staff reported many problems associated with the Court automation system. Staff concerns included the lack of a bond schedule table. Without the bond schedule table the staff manually entered each payment, including the breakdown of the fine and surcharge. The Court staff had numerous problems with data entry errors that were not identified during the time of input. The automation system provided very few error messages.

**Recommendation 52:**

The Court should develop a list of staff concerns regarding the software system. Court staff should be encouraged to provide feedback and suggestions for improvement. A written report should be developed from the Presiding Judge and Court Administrator defining Court needs and requests. The Court should prioritize their requests and work with the Tempe MISD to develop a timeline for completing tasks. Refer to the Tempe City Organizational Review Team Report (Appendix D) and the Organizational Review Task Chart, task #7, 8, 9 (Appendix J).

**Finding 53:** Case files showed that the Court's automation system allows cases to be closed and calendared for purging before all charges have been resolved.

Defendants charged with multiple offenses are entered in the Court automation system. A letter is assigned to each charge after the citation number. For example: 804299-A, 804299-B, 804299-C. As soon as one of the three charges is disposed of, the entire case is closed, making it difficult to track and monitor cases.

**Recommendation 53:**

The Court's automation system should not close unadjudicated cases. The Court should work with City MISD to correct problems associated with case processing. Cases that are closed prematurely result in inaccurate statistical reports. A physical

inventory should be conducted to accurately identify case activity. Statistical corrections should be reported to the Supreme Court. The Court should accomplish a complete case inventory by January 1, 1995.

**Finding 54:** The Court automation system does not accurately calculate, monitor or report statistical information. Arizona Supreme Court statistics are incorrect.

**Recommendation 54:**

The Court should work with the City MISD to correct problems associated with case processing. A physical inventory should be done to compare case files with the automation system in order to make the necessary corrections and to identify accurately case activity. Refer to Statistics section in this report, Finding 24.

## **FACILITY**

### **Overview**

The Tempe Municipal Court is located at 140 East Fifth Street in downtown Tempe. The Tempe Police Department and the City Prosecutor's Office are also housed in the City Court Complex.

The Court occupies two floors in the Court Complex and is divided into four divisions: Administration, Criminal, Traffic and Fines Administration. Divisions occupying the first and second levels have a lobby and provide an adequate waiting area for the public.

The second floor houses the Administration, Criminal and Fines Divisions which include offices for the Presiding Judge, the Court Administrator, the Fines Administrator, and three judges. In addition, there is a large clerical area, an employee break room, a jury room, and two offices used by the prosecutors and defense attorneys.

The first floor is occupied by the Civil Traffic Division and prior to March 11, 1994, the A.C.T.S. defensive driving school. There is a large clerical area, two private offices, a jury room, a courtroom and an employee break room.

**Finding 55:** The office areas on both floors appear adequate for Court staff. The desks are well spaced and there is ample room to walk. The offices are well lit and have no wiring problems. The employees have clean and spacious break rooms, but records are stored in at least one of them. The Court has expressed a need for additional space.

The clerk areas in the Civil Traffic Division are crowded and may not accommodate a wheelchair. Doorways to the Civil Traffic and Criminal Divisions appeared to be adequate, but the height of the front counters make them inaccessible by wheelchair.

The Court does not have a TDD machine or service for those people who are hearing impaired.

**Recommendation 55:**

The Court should work with the City of Tempe to ensure the Court complies with the Americans with Disabilities Act. Action should be taken to correct any problems identified.

The Court should consider acquiring TDD service to answer inquiries from the hearing impaired.

Future space needs should be considered in accordance with the City's master facilities plan. (See Tempe City Organizational Review Team Report, Appendix D, pages 1-10, 1-11, and Briefing to the Mayor and Council, Appendix B, page 4.) (See also Finding 29.)

## **SECURITY**

**Finding 56:** The Court had very little security when the AOC review team arrived at the Court. In order to secure Court records and improve staff security, the following steps were taken immediately:

1. The Court automation system was changed to allow inquire capability only.
2. Locks were changed on all external Court doors. Several internal locks were changed to office areas in order to provide a secure area to store confidential materials gathered during the review.
3. The review team worked with the Tempe Police Department to provide training for Court staff. The Court staff received two hours of COJET-approved training by March 7, 1994.

The Tempe Police Department conducted a security survey and a copy of their report is in Appendix L of this report.

**Recommendation 56:**

The Court should follow the recommendations identified in the report submitted by the Tempe Police Department. Refer to Organizational Review Task Chart (Appendix J).

**Note:** The Court has completed many of the security recommendations identified by the City Organizational Review Team.

# **APPENDIX**

# APPENDIX A

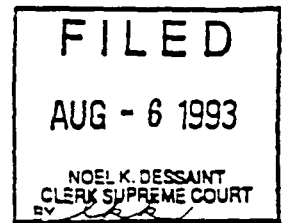
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## BACKGROUND ADMINISTRATIVE ORDERS



THE SUPREME COURT OF THE STATE OF ARIZONA

Administrative Order No. 93-30 - Revised



ORDER APPROVING

ADMINISTRATIVE RULES V-A, PRESIDING JUDGE-SUPERIOR COURT;  
VI-A SECTION 2, PRESIDING JUSTICE OF THE PEACE; AND  
VII-A SECTION 2, PRESIDING JUDGE-MUNICIPAL COURT

IT IS ORDERED approving Administrative Rules V-A, Presiding Judge-Superior Court; VI-A Section 2, Presiding Justice of the Peace; and VII-A Section 2, Presiding Judge-Municipal Court as set forth in the attachment hereto, effective June 15, 1993.

This order replaces administrative orders 92-2, 91-36, 90-3, 6-30-80, 11-3-77 (In re Statistical Reports for Justice Courts and City Magistrate Courts), and 11-3-77 (In re Statistical Reports for Superior Courts.)

DATED in the City of Phoenix, Arizona at the  
Arizona Courts Building this 6th day of  
August, 1993.

  
Stanley G. Feldman, Chief Justice

ADM93-30  
Attachment

RECEIVED  
AUG 09 1993

Presiding Judge, Superior Court  
C. KIMBALL ROSE

## ADMINISTRATIVE RULE V-A

### PRESIDING JUDGE - SUPERIOR COURT

- I. **Appointment** - In each county with two or more superior court judges, the Supreme Court shall appoint one of such judges presiding judge. The presiding judge shall serve as the presiding judge of the county. Presiding judges may be reappointed.
- II. **Term of Office** - The presiding judge of the superior court in each county shall serve a term of five (5) years. The term of the presiding judge may be extended as determined by the Supreme Court.

<NOTE: The terms of all presiding judges who have served five (5) years or more will expire December 31, 1993, subject to reappointment under I and II above.>

### III. **Duties -**

- A. Presiding judges shall be the Chief Judicial Executive Officers of their respective counties and shall exercise administrative supervision over the superior court and judges thereof in their counties; exercise administrative supervision over the clerk of the superior court; give direction to the court administrator; exercise administrative supervision over the justice of the peace courts in their counties; and exercise administrative supervision over the municipal courts in their counties. In counties with an associate presiding judge, and when so designated by the presiding judge, the associate presiding judge shall perform the duties of presiding judge of the superior court.
- B. Administrative supervision of the superior court shall include authority to:
  - (1) Make regular and special assignments of all superior court judges, except as otherwise provided by Arizona Revised Statutes Section 8-202(B), and, unless otherwise directed by the Chief Justice and in cooperation with other presiding judges, assign judges within the county to other counties.
  - (2) Exercise general supervision over all superior court personnel, not otherwise exercised by the individual judges.
  - (3) Prescribe the powers and duties of the clerk of the court, in addition to those prescribed by law and the Supreme Court.

- F. In counties with four or more justices of the peace, a presiding justice of the peace will be chosen by vote of the justices of the peace in the particular county, with the advice and consent of the presiding judge of the county. In case of a tie vote of the justices of the peace, the presiding judge of the county shall make the selection.
- G. Presiding judges may appoint a superior court administrator.
- H. Presiding judges shall submit to the Board of Supervisors a coordinated budget for the superior court, clerk of the superior court, adult probation, juvenile court and justice of the peace courts in their counties.
- I. Presiding judges shall assist the presiding justice of the peace and presiding municipal court judges in coordinating uniform bond schedules.
- J. Presiding judges shall obtain compliance with statistical reporting requirements from superior court, adult probation, juvenile court, justice courts and magistrate courts. ✓
- K. Presiding judges shall coordinate and implement compatible information systems and technology at the local level for all jurisdictions within the county, improve information sharing, and encourage projects which utilize technology to increase accessibility and improve efficiency and court management within their jurisdictions.
- L. Presiding judges shall submit a written report, not less than every 18 months, to the Supreme Court and Arizona Judicial Council concerning plans made and progress achieved toward implementation of Admin Order 91-40, Access to Court Services.
- M. Presiding judges shall approve and coordinate applications for grant funds from all courts in their respective counties.
- N. Presiding judges shall, yearly, certify compliance, non-compliance and exemptions with Educational Policies and Standards.
- O. Presiding judges shall approve procedures for implementing sexual harassment policies in the courts in their counties.
- P. Presiding judges shall approve plans to implement the policy on access to court services by persons with disabilities, for the courts in their respective counties and report such plans to the Supreme Court.
- Q. Presiding judges may delegate any part of this order, as appropriate, to the presiding justice of the peace and presiding municipal court judges.

## **ADMINISTRATIVE RULE VII-A, Section 2**

### **PRESIDING JUDGE - MUNICIPAL COURT**

- I. **Appointment** - Presiding municipal court judges shall be selected in a manner provided by the charter or ordinances of the city or town, except in cities and towns which transfer that responsibility to the presiding judge of the county.
- II. **Term of Office** - The presiding municipal court judge shall serve a term as established by the appointing authority.
- III. **Duties:**
  - A. Presiding municipal court judges shall perform administrative duties delegated to them by the presiding judge of the county. Such duties as are appropriate, may be delegated to a municipal court administrator.
  - B. Presiding municipal court judges may appoint a court administrator according to local charter or ordinance provisions.
  - C. Presiding municipal court judges shall supervise the administration of the judicial and internal administrative functions of the municipal court including:
    - (1) Determining judicial assignments for each judge and, within guidelines established by city or town council, establishing and maintaining standard working hours and times to effectively discharge those assignments;
    - (2) Being responsible for the supervision of judges and judicial and non-judicial staff who directly affect the operation of the court; and
    - (3) Delegating duties and responsibilities to judges, judicial and non-judicial personnel as necessary.
  - D. Presiding municipal court judges shall work with the presiding judge of the county to assure selection of judges pro tempore in the municipal court is consistent with administrative order 93-17.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

IN THE MATTER OF THE ADMINISTRATION	)	
OF THE MUNICIPAL COURT OF THE	)	ADMINISTRATIVE ORDER
CITY OF TEMPE, ARIZONA	)	NO. 94-015
	)	

---

Pursuant to Supreme Court Administrative Orders 94-8, 93-30 Revised, and 83-11, and in the continuing responsibility for the constructive possession of the books and records and for the independent operation and integrity of the Municipal Court of the City of Tempe (Tempe City Court), until a new Municipal Court Presiding Judge is selected by the City Council of Tempe, it is

ORDERED rescinding the assignment of Court Commissioner Toby Gerst to special duty as Interim Associate Presiding Municipal Court Judge, and the status of designee of Judge C. Kimball Rose; except as Court Commissioner Toby Gerst may be verbally directed by the Presiding Judge of Maricopa County in the future to assist with the administration of the Tempe City Court, in which event Court Commissioner Toby Gerst will be acting as a designee of Judge C. Kimball Rose.

ORDERED, a personnel exchange agreement having been reached between the cities of Phoenix and Tempe, reassigning Phoenix Municipal Court Judge Louraine C. Arkfeld to sit in the Tempe City Court, appointing Judge Louraine C. Arkfeld as Interim Associate Presiding Judge of the Tempe City Court, and directing that Judge Louraine C. Arkfeld shall use the title of Presiding Municipal Court Judge for the Tempe City Court until further order of this court.

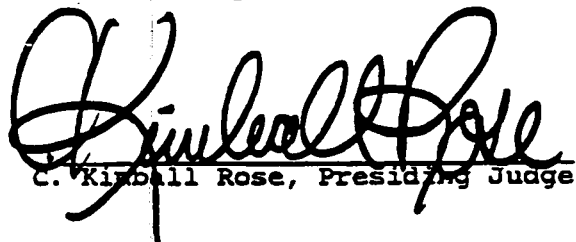
ORDERED delegating to Judge Louraine C. Arkfeld the authority and responsibilities set forth in Supreme Court Administrative Order 93-30 Revised, Administrative Rule VII-A, Section 2, subject to oversight by the Presiding Judge of Maricopa County.

ORDERED, agreement having been reached between Judge George Preston, through Scottsdale City Court Administrator Tom Brady and the Presiding Judge of Maricopa County, reassigning Sheila Gooden from the Scottsdale City Court to the Tempe City Court on a verbally agreed as-needed basis and appointing Sheila Gooden as Interim Associate Court Administrator for the Tempe City Court, and directing that, while acting in such capacity, Sheila Gooden may use the title of City Court Administrator until further order of this court.

ORDERED directing Presiding Municipal Court Judge Louraine C. Arkfeld, City Court Administrator John Greco, and City Court Administrator Sheila Gooden to take all necessary action to assure compliance by the Tempe City Court with Supreme Court Administrative Order 83-11 and all other applicable Supreme Court Administrative Orders.

ORDERED designating Presiding Municipal Court Judge Louraine C. Arkfeld and City Court Administrator Sheila Gooden as additional designees of Judge C. Kimball Rose pursuant to Supreme Court Administrative Order 94-8.

Done and entered on February 22, 1994.



C. Kimball Rose, Presiding Judge

Original filed with the Clerk of the Court

CC: Justice Stanley G. Feldman  
David K. Byers, AOC  
Hon. Robert Dorfman, Phoenix Presiding Judge  
Hon. George Preston, Scottsdale Presiding Judge  
Harry Mitchell, Mayor of Tempe  
Terry Zerkle, Tempe City Manager  
David Merkel, Tempe City Attorney  
Hon. Rebecca A. Albrecht, Associate Presiding Judge  
Gordon Griller, Court Administrator  
Municipal Court Presiding Judges

## IN THE SUPREME COURT OF THE STATE OF ARIZONA

FILED

FEB - 4 1994

NOEL K. DESSAINT  
CLERK SUPREME COURT  
BY *[Signature]*

In the Matter of: )  
 )  
TEMPE MUNICIPAL COURT )  
 )  
 )  
 )  
 )  
\_\_\_\_\_ )

Administrative Order

No. 94- 8

The Supreme Court, having administrative supervision over all courts of the state pursuant to the Constitution of Arizona, Article VI, periodically conducts reviews and audits of operations.

Pursuant to the foregoing authority the Supreme Court has been advised of possible irregularities with the operations of the Tempe Municipal Court. To assume the independent and proper operation of the court,

IT IS NOW ORDERED as follows:

Until further order of the Court, all books and records of the Tempe Municipal Court are placed in the constructive possession of the presiding Judge of the Superior Court of Maricopa County, Arizona, and, in particular, in the constructive possession of the Honorable C. Kimball Rose, or his designees.

Although constructive possession of the books and records of the Tempe Municipal Court is being hereby transferred to Judge Rose, the Court recognizes that physical possession of the books and records is presently at the Tempe Municipal Court. Therefore,

IT IS FURTHER ORDERED that, until further order of the Court, no person, other than Honorable C. Kimball Rose or his designess, or the Administrative Director of the Courts or his designee, shall remove from the premises of the Tempe Municipal Court any paper or record of any type whatsoever for any reason whatsoever, nor shall any such paper or

record be defaced, altered or destroyed. This order is intended to and does apply to all personnel of the Tempe Municipal Court, including judges, the clerk, the deputy clerks, all employees of the court, city officials and any agents or representatives of any of the foregoing named individuals. The Administrative Office of the Courts is to take immediate steps to secure the integrity of electronic records contained in the court's automated system. Service of this order is authorized by in-person delivery or by on-site delivery by Karen Karowski or any other Administrative Office of the Courts employee.

IT IS FURTHER ORDERED that administrative control of the Court shall be assumed by Judge Rose. Judge Rose may issue any order required to ensure the proper independent operation of the Tempe Municipal Court. Judge Rose, in cooperation with the Administrative Office of the Courts, shall take appropriate steps to secure the court and its records, and provide for independent and proper operations of the court. Former Judge Stephen Mirretti, having resigned as presiding judge of Tempe Municipal Court, shall not be allowed on court premises without the authorization of Judge Rose.

DATED this 4th day of February, 1994.

Robert J. Corcoran  
ROBERT J. CORCORAN, Justice

Served by Karen S. Karowski  
On 2-4-94 at 10:30 a.m.

accepted for the City of Tempe by:  
On 2-4-94 at 10:30 a.m. David R. M. [Signature]

- 2 -

Witnessed by: George T. Smith

TOTAL P.03



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

IN THE MATTER OF THE ADMINISTRATION  
OF THE MUNICIPAL COURT OF THE  
CITY OF TEMPE, ARIZONA

)  
) ADMINISTRATIVE ORDER  
) NO. 94-011

---

Pursuant to Supreme Court Administrative Order 94-8, it is

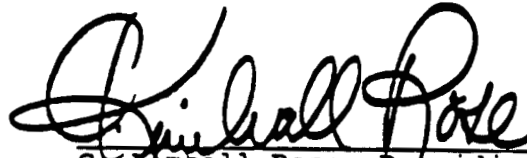
ORDERED that C. Kimball Rose, Presiding Judge of Maricopa County, hereby assumes administrative control of the Municipal Court of the City of Tempe, Arizona, and constructive possession of books, records and papers, electronic, or otherwise, of said Municipal Court.

ORDERED that no books, records and papers, electronic, or otherwise, shall be removed, defaced, altered or destroyed from, on or away from the premises of said Municipal Court without the approval of C. Kimball Rose or his designees, or David Byers, Administrative Director of the Administrative Office of the Courts, or his designees, with approval of the Supreme Court or C. Kimball Rose, until further order of C. Kimball Rose or the Supreme Court.

ORDERED assigning Court Commissioner Toby Gerst to the Municipal Court of the City of Tempe and appointing Court Commissioner Toby Gerst as Interim Associate Presiding Judge of said Municipal Court.

ORDERED that Toby Gerst, Karen Karowski and Jeanie Lynch are hereby designated as the designees of C. Kimball Rose and David Byers.

DONE ON FEBRUARY 7, 1994

  
C. Kimball Rose, Presiding Judge  
Maricopa County

Original filed with the Clerk of the Court

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

IN THE MATTER OF THE ADMINISTRATION	)	
OF THE MUNICIPAL COURT OF THE	)	ADMINISTRATIVE ORDER
CITY OF TEMPE, ARIZONA	)	NO. 94-012
	)	

---

BACKGROUND AND PRELUDE TO ORDER

On February 3, 1994, former Presiding City Court Judge Stephen Mirretti resigned. As a result of information alleging possible wrongdoing involving operation of the Tempe Municipal Court, on that date, the Attorney General and the Department of Public Safety took physical control of the Tempe Municipal Court.

On February 4, 1994, by Administrative Order 94-8, the Arizona Supreme Court ordered the Presiding Judge of Maricopa County to take constructive possession of all books and records of the Tempe Municipal Court and to allow Stephen Mirretti on the premises only with the approval of the Presiding Judge.

Since February 3, 1994, the Attorney General and the Department of Public Safety have been conducting an investigation which, at least in part, pertains to the activities of Stephen Mirretti while he was Presiding City Court Judge.

Since February 4, 1994, the Administrative Office of the Courts has been conducting a review of the accounting and administrative procedures of the Tempe Municipal Court with a goal of implementing, with approval of the Presiding Judge, such changes as may be necessary to maintain the proper independent operation and integrity of the Tempe Municipal Court.

On February 4, 1994, the Presiding Judge gave direction to all City Court employees that they were to have no contact, direct or indirect, with Stephen Mirretti. A like direction was given to Terry Zerkle, City Manager, relative to city employees.

On February 7, 1994, the "no contract" directive was modified to allow Stephen Mirretti to be able to complete documents necessary for his "out-processing" with the City of Tempe.

The operation of the Tempe Municipal Court has essentially returned to its normal routine except as the AOC review and a new Presiding Judge have caused necessary changes and except as individuals have been interviewed pertaining to the investigation by the Attorney General.

It appears that the investigation of the Attorney General's Office and the Department of Public Safety continues with reasonable intensity.

Given all of the foregoing, which must continue to be taken into consideration in daily functioning of the Court and by court employees and the City and by city employees, it is reasonable to rescind the directive about no contact, direct or indirect, with Stephen Mirretti, the foregoing precatory words having been stated.

Accordingly, it is

ORDERED rescinding the directive of the Presiding Judge on February 4, 1994, that employees of the Tempe Municipal Court and that employees of the City of Tempe have no contact, direct or indirect, with former Presiding City Court Judge Stephen Mirretti.

ORDERED, in accordance with Arizona Supreme Court Administrative Order 94-8, that Stephen Mirretti shall not be allowed on Court premises without the authorization of Judge Rose.

DONE ON FEBRUARY 14, 1994



C. Kimball Rose, Presiding Judge  
Maricopa County

Original filed with the Clerk of the Court

CC: Justice Stanley G. Feldman  
David K. Byers, AOC  
Agnes Felton, AOC  
Mayor Harry Mitchell, City of Tempe  
Terry Zerkle, City Manager  
David Merkel, City Attorney  
Michael Cudahy, Office of Attorney General  
Glynn Gilcrease

**In the Matter of:**

## COURT ARRAIGNMENTS

DATED THIS 15TH DAY OF FEBRUARY, 1994

C. K. BALL ROSE  
PRESIDING JUDGE  
TEMPE MUNICIPAL COURT

IN THE MUNICIPAL COURT OF TEMPE  
IN AND FOR THE COUNTY OF MARICOPA, STATE OF ARIZONA


In the Matter of:

COURT FILES  
\_\_\_\_\_

)  
)  
) ADMINISTRATIVE ORDER  
) NO. 94-05  
)  
)  
)  
)

Effective immediately no court files will be pulled and/or removed from any and all City Court filing areas by anyone other than specifically authorized City Court employees.

DATED THIS 23RD DAY OF FEBRUARY, 1994

  
\_\_\_\_\_  
Louraine C. Arkfeld  
Presiding Judge  
Tempe Municipal Court

COURT PERSONNEL AUTHORIZED TO PULL COURT FILES

MAURICE EVANS  
JILL SEYFFERLE  
JACQUE FRUSETTA  
EDITH ROSS  
TAD KERN  
DOLORES VALLEJO  
CHERYL BROUHARD  
SHELLY UNDERHILL  
RYAN GARRISON  
CINDY THOMAS  
JERRY BELCOURT  
PAUL HEINRICH

ANDRA PENDLETON  
SCOTT PARRIOTT  
CHERYL SUMMERLIN  
GAIL SPEARS  
PAM DESBOROUGH  
LINDA CLARK  
CHRISTY DUKE  
JENNY HANLON  
FRAN LEHRER  
JENNIFER HANLON  
KATHY MONTALVO

# APPENDIX B

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TEMPE MUNICIPAL COURT  
BRIEFING TO THE MAYOR AND COUNCIL  
03/31/94

# **TEMPE MUNICIPAL COURT**

## **BRIEFING TO MAYOR AND COUNCIL**

**03/31/94**

- **STATUS OF COURT**
- **COURT REORGANIZATION**
- **FY 1994-95 COURT BUDGET**
- **DECISION SHEET**

---

**NOTE:** This document is complete and updated. It includes the original blue briefing document dated 03/17/94 and the yellow supplementary information dated 03/24/94. The blue and yellow documents may be discarded.

---

**By:**

**C. Kimball Rose**  
Presiding Judge  
Superior Court  
Maricopa County

**Louraine C. Arkfeld**  
Interim Presiding Judge  
Tempe Municipal Court

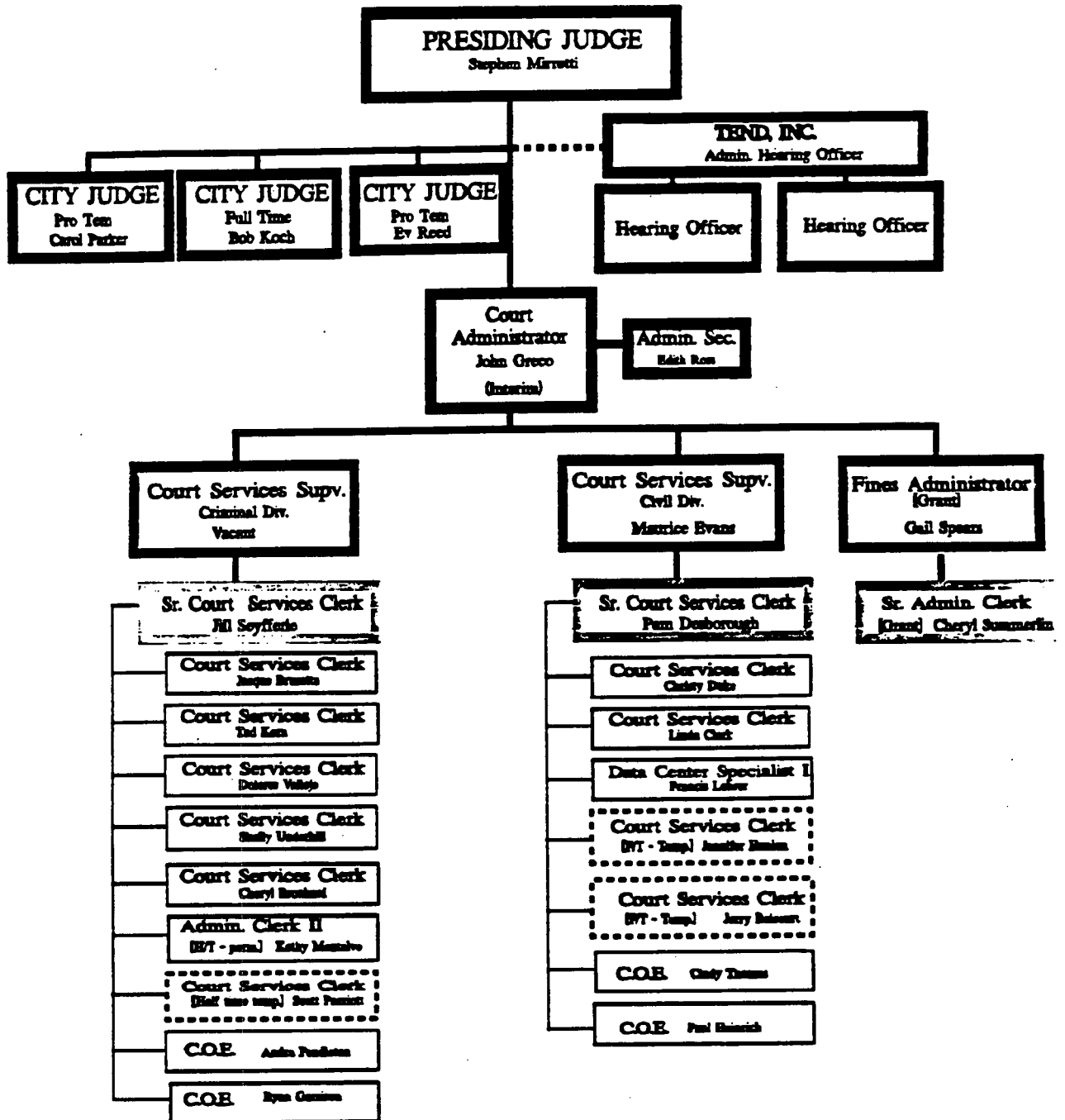
**John W. Greco**  
Interim Court Administrator  
Tempe Municipal Court



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TEMPE CITY COURT  
01/24/94



31 POSITIONS

- 16 Regular FT
- 3 Regular H/T
- 3 Temporary H/T
- 2 Grant Positions
- 3 Contracted Services Positions
- 4 COEs

# **TEMPE MUNICIPAL COURT**

**Briefing - 03/31/94**

## **I. STATUS OF COURT SYSTEMS PRIOR TO 01/24/94**

### **SOURCES:**

- Organizational Review Report including prior audits
- Interim Presiding Judge
- Interim Court Administrator
- Arizona Supreme Court Auditors
- Current Arthur Anderson Audit
- Arizona Attorney General Investigators

### **■ TEND, INC. - HEARING OFFICERS**

### **■ CONTINUANCES BY JUDGES**

### **■ PRESIDING JUDGE**

### **■ MANAGEMENT OF COURT**

- No Court Administrator
- No Court management
- No Division System.
- Limited supervision; no staff training; no career growth.
- Lack of staff; excessive use of temporary and part-time positions.

## **II. DEVELOPMENTS**

- Interim Court Administrator
- Resignation of Presiding Judge
- Seizure of the Court
- Interim Presiding Judge
- Supreme Court Audit
- Arthur Anderson Audit
- Attorney General Investigation
- Tend, Inc. Hearing Officer contract terminated.
  - New Hearing Officers.
  - New audio equipment installed in Traffic Court.
- Act, Inc. Driving School contract terminated.
  - New Driving School.
  - Increased revenue.
- Policies and procedures changed.
- New bond card.
- All Organization Review recommendations addressed; many completed; others in progress, including Division system.
- Supreme Court Audit report in progress.
- Arthur Anderson Audit report in progress.
- Attorney General's investigation in progress.

### **III. REORGANIZED COURT: FROM 31 TO 32 POSITIONS**

- **Interim Presiding Judge Louraine Arkfeld in place.**

**ACTION:** Mayor and Council to hire permanent Presiding Judge.

- **New full-time contract Judge to replace two (2) current pro tem Judges.**

**ACTION:** Mayor and Council. Hire new full-time City Judge.

- **Hire two full-time regular employee Hearing Officers to replace Tend, inc.**

**ACTION:** Court to hire two law trained Hearing Officers as soon as possible.

- **Interim Court Administrator John Greco.**

**ACTION:** New Presiding Judge to select permanent Court Administrator.

- **Vacant Deputy Court Administrator position.**

**ACTION:** Court to fill this position as soon as possible.

- **Team Leaders (first-line supervisors).**

**ACTION:** Court to fill these positions from current staff.

- **Current Court staff: reclassify all current staff positions to "Court Services Specialists I/II." Make part-time and temporary positions full-time regular "Court Services Specialists I/II" positions.**

**ACTION:** Court and Human Resources, as soon as possible.

- **Do NOT hire Administrative Hearing Officer. Eliminate current Fines Administrator position.**

**RESULTS:** These two actions will help to fund conversion of temporary and part-time positions.

- **Major expansion of physical facilities has already been addressed elsewhere. Note that current Court operations need approximately one-third more space. Planned move into area currently occupied by Human Resources should meet current and projected space needs.**

# **TEMPE CITY COURT** Reorganized

**PRESIDING JUDGE**  
(Interim) Louraine Arkfeld

**CITY JUDGE**  
Full Time (Vacant)

**CITY JUDGE**  
Full Time Bob Koch

**HEARING OFFICER**  
Full Time (Vacant)

**HEARING OFFICER**  
Full Time (Vacant)

**Court Administrator**  
(Interim) John Greco

**Admin. Sec.**  
Fidith Ross

**Deputy Court Administrator**  
Criminal Division (Vacant)

**Deputy Court Administrator**  
Civil Division (Vacant)

**Criminal Serv. Team**  
Sr. Court Services Specialist (Vacant)

- C. S. S. I/II JM Seyffert
- C. S. S. I/II Jacque Prasetta
- C. S. S. I/II Cheryl Summrell
- C. S. S. I/II Kathy Montalvo
- C. S. S. I/II Scott Purlett
- New Position
- COB Ryan Oatman

**Court Serv. Team**  
Sr. Court Services Specialist (Vacant)

- C. S. S. I/II Ted Kern
- C. S. S. I/II Shelly Underhill
- C. S. S. I/II Dolores Valdejo
- C. S. S. I/II Cheryl Brouhard
- C. S. S. I/II Gail Speert
- COB Andra Poodinec

**Traffic Serv. Team**  
Sr. Court Services Specialist (Vacant)

- C. S. S. I/II Pam Deeborough
- C. S. S. I/II Linda Clark
- C. S. S. I/II Jennifer Hanson
- C. S. S. I/II Jerry Deboart
- New Position
- COB Paul Helarich

**Tech. Serv. Team**  
Sr. Court Services Specialist (Vacant)

- C. S. S. I/II Francis Loree
- C. S. S. I/II Christy Duke
- New Position
- COB Gladys Thomas

32 POSITIONS  
28 Regular FT  
4 COEs

NOTE: 4 Sr. C. S. S. positions to be filled by existing personnel

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#### **IV. BUDGET NOTE**

Prepared by Mark Bach and indicates funding necessary for Reorganized Court.

- Actual FY 94-95 expenditures to be significantly less because salary projections were mid-range.
  - Revenues from Traffic School and new Bond Schedule.
  - Long range plans include possibility of increased revenue generation.
-

**BUDGET PROPOSAL SUMMARY**  
**Tempe City Court**  
**FY 1994-95**

	<b>PROJECTED FY 93-94</b>	<b>REQUESTED FY 94-95</b>
BASE BUDGET - Supplies, Services, Training	\$ 670,173	\$ 257,450
BASE BUDGET - Wages and Overtime Services	\$ 63,336	\$ 44,684
REORGANIZATION - Long Term Median Salary Cost first year costs significantly less	\$ 561,971	\$ 644,698
ORGANIZATIONAL REVIEW - Implementation (3 of 4 recommendations)	\$ 0	\$ 295,233
NEW SUPPLEMENTAL REQUESTS	\$ 0	\$ 142,313
<b>TOTAL IMPACT CITY COURT</b>	<b>\$1,295,480</b>	<b>\$1,384,378</b>

**NOTE:** Requested 1994-95 funds do not include \$164,000 in Jail costs to be transferred to Management Services.



## **BUDGET PROPOSAL - DETAILED**

Tempe City Court  
FY 1994-95

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### **BASE BUDGET - Supplies, Services, and Training**

Year to year comparisons in this portion of the budget can be difficult due to accounting changes.

Only \$257,450 is requested for cost center 1410. A major factor in this reduction is shifting the Jail costs to Management Services.

In addition, the Courts do not currently agree with Organization Review's recommendation to drop their jury pool contract with the County and this is reflected in the amount sought for jury fees.

### **BASE BUDGET - Wages/Overtime**

A total of \$44,684 is requested. This reflects a conversion of three (3) COE positions at 1.46 FTE (full time equivalent) to four (4) COEs with an FTE of 2.8. In addition, less compensatory time will be allowed and more monetary compensation issued for existing personnel. (See "Base Budget Request" for more details.)

### **REORGANIZATION**

The long term impact of the proposed reorganization will cost an additional \$82,727. The first year cost will be lower and will depend on which personnel are selected for which positions. Criminal Justice Enhancement Fund partial funding for two (2) positions will be terminated, and the seventeen (17) existing positions will be reclassified into eighteen (18) positions. (See "Fiscal Analysis Existing Full Time Court Personnel.")

### **ORGANIZATIONAL REVIEW**

The cost of implementing the Organizational Review's three (3) personnel recommendations (Court Administrator, Judge, and two Hearing Officers) will be \$295,233, which includes \$43,700 in one time capital outlays. At this time the proposal for an Administrative Hearing Officer is not being pursued. (See "Fiscal Analysis of Organizational Review Recommendations" for full details.)

## **SUPPLEMENTAL NEEDS**

- The recording of hearings will ultimately save transcriber costs. To outfit three (3) additional courtrooms will cost \$13,000.
- Upgrading one (1) existing part-time Administrative Clerk II (FTE .63) to a full-time Court Services Specialist I/II will cost an additional \$10,598.
- Upgrading two (2) existing part-time Court Services Clerks (FTE .98) to two full-time Court Services Specialist I/II will cost an additional \$34,152.
- Hire three (3) Court Services Clerks I/II in lieu of hiring the approved Administrative Hearing Officer will cost \$84,563. This is offset by not hiring the previously approved position of Administrative Hearing Officer which would have cost a projected \$72,937. Net additional cost to the City is \$11,626.

**Approval of all supplements will:**

- ◆ Eliminate part-time personnel (except for COEs).
- ◆ Increase full time authorized strength by six (6) Court Services Specialists I/II.
- ◆ Provide needed recording equipment for courtrooms.

**COST OF ALL SUPPLEMENTS:            \$142,313**

# Base Budget Request Tempe City Court FY 94-95

Cost Center 1410 Account	Spent FY91-92	Spent FY92-93	Budget FY93-94	Projected FY93-94	Requested FY94-95	Decrease or (Increase) from FY93-94 Projections
Office Supplies	\$10,468	\$27,142	\$8,410	\$18,126	\$20,000	(\$874)
Clothing			\$140	\$140	\$300	(\$160)
Minor Equipment	\$1,908	\$2,541	\$2,587	\$2,587	\$2,000	\$587
Printing & Copier Supplies	\$477	\$1,827	\$862	\$1,402	\$1,500	(\$98)
Communications Parts-Telephone		\$1,634			\$0	
Books & Publications	\$465	\$17	\$1,040	\$1,040	\$1,800	(\$760)
First Aid Supplies			\$0	\$0	\$250	(\$250)
Awards					\$500	(\$500)
Miscellaneous Supplies	\$531	\$681	\$712	\$712	\$1,500	(\$788)
Jury Fees	\$11,794	\$10,884	\$5,636	\$9,474	\$29,500	(\$20,026)
Legal Fees	\$80,828	\$85,000	\$33,478	\$88,000	\$94,000	(\$6,000)
Collection Fees	\$1,128	\$2,481	\$0	\$2,708	\$3,000	(\$292)
Contracted Services *	\$477,813	\$363,208	\$512,738	\$512,738	\$54,450	\$458,288
Software Expenses		\$1,490				
Laundry, Uniforms & Towels	\$16	\$58	\$17	\$58	\$100	(\$42)
Telephone	\$75	\$527				
Memberships and Subscriptions	\$2,297	\$1,581	\$520	\$200	\$1,300	
Postage		\$75				\$0
Outside Printing/Forms	\$14,410	\$18,817	\$12,353	\$16,878	\$18,000	(\$1,124)
Duplicating	\$652	\$822	\$1,527	\$1,568	\$2,500	(\$934)
Equipment & Machinery Repair	\$325	\$749	\$2,443	\$2,056	\$4,500	(\$2,444)
Equipment & Machinery Rental	\$13,726	\$12,381	\$17,207	\$8,568	\$10,000	(\$1,432)
Training & Seminars	\$926	\$351	\$2,922	\$2,922	\$7,500	(\$4,578)
Employee Mileage		\$59	\$0	\$0	\$2,000	(\$2,000)
Travel	\$182		\$0		\$2,000	(\$2,000)
Local Meetings		\$171	\$0		\$750	(\$750)
<b>Subtotal</b>	<b>\$618,031</b>	<b>\$532,354</b>	<b>\$653,390</b>	<b>\$670,173</b>	<b>\$257,450</b>	<b>\$412,723</b>
<b>1410-ADMIN</b>						
Wages	\$15,288	\$98,108				
Overtime	\$239	\$1,518			\$2,578	(\$2,578)
<b>1411-CRIMINAL</b>						
Wages**	\$32,155	\$29,888	\$20,198	\$28,534	\$14,937	\$13,597
Overtime	\$8,505	\$3,518	\$2,848	\$2,848	\$6,116	(\$3,268)
<b>1412-TRAFFIC</b>						
Wages**	\$10,537	\$16,581	\$15,377	\$29,106	\$14,937	\$14,169
Overtime	\$430	\$2,046	\$2,848	\$2,848	\$6,116	(\$3,268)

## Notes:

- Base budget request based only on existing authorized personnel
- Due to differences in accounting methods, year to year comparisons may not be accurate
- Projection based on expenses through December, 1993
- \* Jail costs transferred to Management Services per Organization Review
- \*\* Reflects increasing hours for COE positions only; other part-time personnel positions converted to full time personnel by supplemental requests

# Tempe City Court Fiscal Analysis Existing Full Time Court Personnel

Job Title	Existing Pay Range	Existing Staff #	Existing Salary Cost	Proposed Pay Range	Proposed Staff #	Proposed Salary Cost	Net Long Term Change
Presiding City Judge ++	112	1	\$71,918	114	1	\$79,284	\$7,366
City Judge ++	44	1	\$53,155	111	1	\$68,493	\$15,338
Administrative Secretary	18	1	\$27,975	18	1	\$27,975	\$0
Court Services Supervisor	28	2	\$71,612				(\$71,612)
Court Fines Administrator +	27	1	\$34,935				(\$34,935)
*Deputy Court Administrator				30	2	\$75,254	\$75,254
Senior Court Services Clerk	12	2	\$48,232				(\$48,232)
Court Services Clerk	8	7	\$152,915				(\$152,915)
Senior Administrative Clerk +	12	1	\$24,116				(\$24,116)
Data Center Specialist	5	1	\$20,285				(\$20,285)
*Court Services Specialist I/II				8/12	9	\$217,044	\$217,044
*Senior Court Services Specialist				18	4	\$111,900	\$111,900
Personnel (17)			\$505,143	Personnel (18)		\$579,950	\$74,807
Pension costs			\$18,185	Pension costs		\$20,878	\$2,693
FICA costs			\$38,643	FICA costs		\$44,366	\$5,723
Total salary impact			\$561,971	Total salary impact		\$645,194	\$83,223

## Notes:

- \* Denotes new job title
- + Denotes previous CJEF funded position
- ++ Current actual salaries are \$93,238 and \$73,035 respectively
- Salaries are calculated at median of pay range/s for long term impact
- FICA is calculated at 7.65% of salaries
- Pension costs are calculated at 3.6% of salaries

# Tempe City Court Fiscal Analysis of Organizational Review Recommendations

Job Title	Hearing Officer	Judge	Court Administrator	* Administrative Hearing Officer
Quantity	2	1	1	1
Pay range	40	54	49	46

## PERSONAL SERVICES

Salaries/Wages	\$86,076	\$60,807	\$53,734	\$49,910
Overtime	\$0	\$0	\$0	\$0
Holiday	\$0	\$0	\$0	\$0
Vehicle Allowance	\$0	\$0	\$3,900	\$0
Social Security	\$6,585	\$4,652	\$4,409	\$3,818
Retirement	\$3,099	\$2,189	\$1,934	\$1,797
Insurance	\$8,424	\$4,212	\$4,212	\$4,212
Subtotal	\$104,184	\$71,860	\$68,189	\$59,737

## RECURRING SUPPLIES, SERVICES & TRAINING

Books	\$1,000	\$500	\$500	\$500
Clothing	\$300	\$150		\$150
Cleaning	\$100	\$50		\$50
Memberships	\$400	\$400	\$400	\$200
Training/local meetings	\$1,500	\$1,000	\$1,000	\$750
Subtotal	\$3,300	\$2,100	\$1,900	\$1,850

## CAPITAL OUTLAY

Training	\$1,000	\$2,500	\$2,500	\$1,000
Office Furniture		\$500	\$15,000	\$5,000
Pagers	\$600	\$300	\$300	\$300
PC	\$10,500	\$5,250	\$5,250	\$5,250
Other				
Subtotal	\$12,100	\$8,550	\$23,050	\$11,550
Recurring Costs	\$107,484	\$73,960	\$70,089	\$61,387
Capital	\$12,100	\$8,550	\$23,050	\$11,550
Total Costs	\$119,584	\$82,510	\$93,139	\$72,937

Total Cost to Implement Organization Review	
First Three Personnel Recommendations	\$295,233

### Notes:

- Salaries are calculated at 5% above starting salary
- \* Administrative Hearing Officer is not being implemented

# Tempe City Court Reorganization Pay Scale Analysis

Job Title	Existing Pay Range	Existing Starting Salary	Existing Maximum Salary	Existing Median Salary	Proposed Pay Range	Proposed Starting Salary	Proposed Maximum Salary	Proposed Median Salary
Presiding City Judge	112	\$61,209	\$93,238	\$71,918	114	\$67,474	\$91,093	\$79,284
City Judge	44	\$45,241	\$61,069	\$53,155	54	\$57,911	\$78,182	\$68,047
Administrative Secretary	18	\$23,811	\$32,139	\$27,975	18	\$23,811	\$32,139	\$27,975
Court Services Supervisor	28	\$30,470	\$41,141	\$35,806				
Court Fines Administrator	27	\$29,733	\$40,136	\$34,935				
*Deputy Court Administrator					30	\$32,024	\$43,230	\$37,627
Senior Court Services Clerk	12	\$20,525	\$27,707	\$24,116				
Court Services Clerk	8	\$18,591	\$25,098	\$21,845				
Senior Administrative Clerk	12	\$20,525	\$27,707	\$24,116				
Data Center Specialist	5	\$17,267	\$23,302	\$20,285				
*Court Services Specialist I/II					8/12	\$20,525	\$27,707	\$24,116
*Senior Court Services Specialist					18	\$23,811	\$32,139	\$27,975

## Notes:

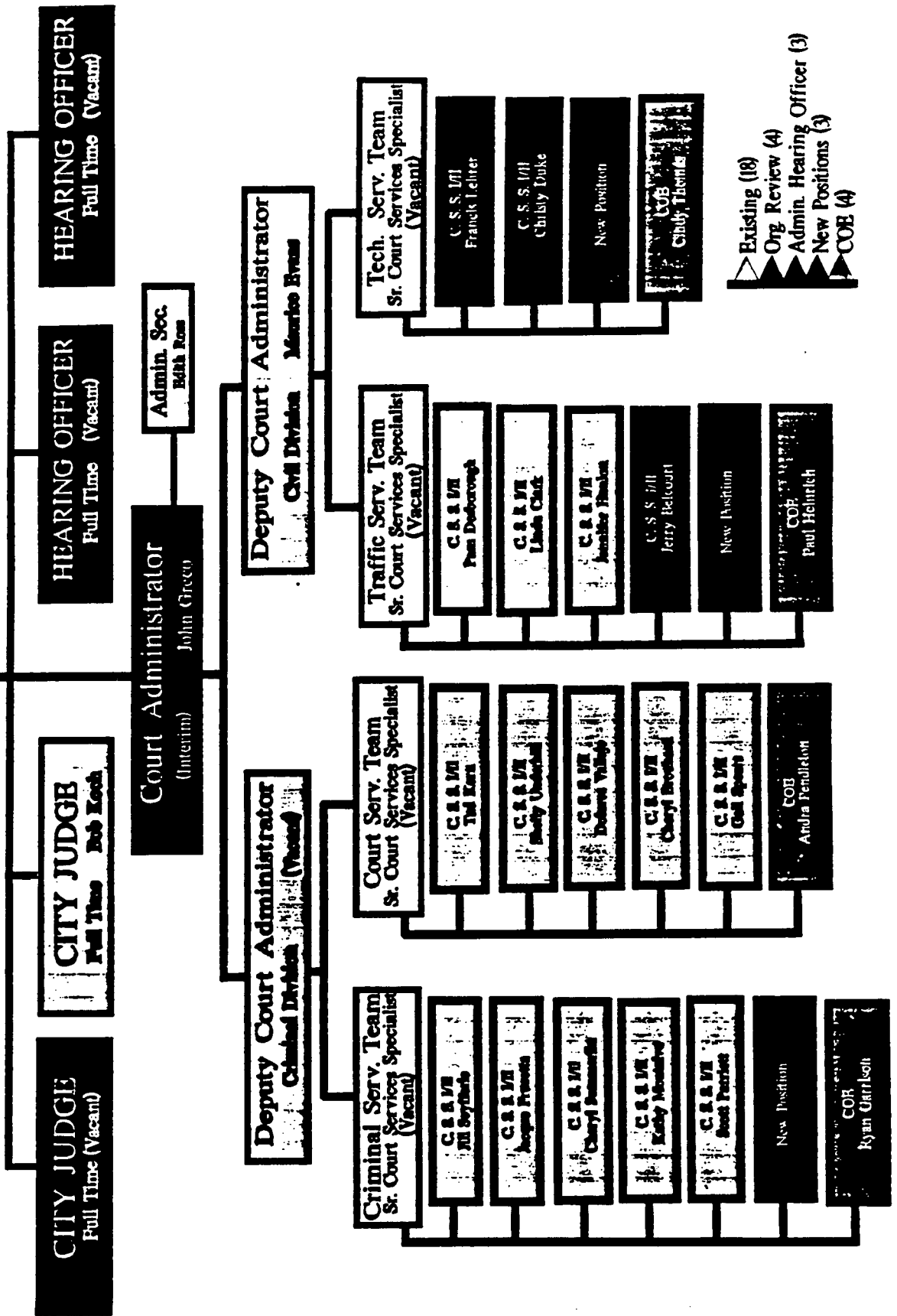
- \* Denotes new job title

# **TEMPE CITY COURT** Reorganized

**PRESIDING JUDGE**  
(Resigned) Louisa Adfield

32 POSITIONS  
26 Regular FT  
4 COEs

NOTE: 4 Sr. C. S. S. positions to be filled by existing personnel



> Existing (18)  
 > Org. Review (4)  
 > Admin. Hearing Officer (3)  
 > New Positions (3)  
 > COE (4)

**MAYOR AND COUNCIL**

**DECISION SHEET**

- Approval for reorganized Court budget: FY 1994-95

- Approval to proceed immediately based on FY 1994-95 reorganized Court budget.



# APPENDIX C

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ARTHUR ANDERSEN & CO.  
FINANCIAL AND ADMINISTRATIVE REPORT

# ARTHUR ANDERSEN

ARTHUR ANDERSEN & CO. SC

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Arthur Andersen & Co.

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Suite 1000  
One Renaissance Square  
Two North Central  
Phoenix AZ 85004  
602 257 9234

April 13, 1994

Honorable C. Kimball Rose  
Presiding Judge  
Superior Court of Maricopa County  
201 West Jefferson Street  
Central Court Building 4-A  
Phoenix, Arizona 85003

Honorable Louraine C. Arkfeld  
Presiding Judge  
City of Tempe Municipal Court  
140 East Fifth Street  
Tempe, Arizona 85281

Judge Rose and Judge Arkfeld:

We have enclosed our findings and recommendations related to the work performed at the Tempe Municipal Court. Our report outlines the project background, our approach and scope, and our findings and recommendations to improve the Court. Our review, completed on April 6, 1994, represented over five weeks of effort and included numerous interviews of Court personnel, review of case files and other Court records to support our findings. We have completed all tasks outlined in our letter dated March 3, 1994.

This report presents our findings as of April 6, 1994, the time we completed our work, and may not represent the procedures in effect at the Court after this date. We recognize that the Presiding Judge, representatives of the AOC and others have been working to improve the operations of the Court throughout the time we performed our review.

ARTHUR  
ANDERSEN

Honorable C. Kimball Rose  
Honorable Louraine C. Arkfeld  
April 13, 1994  
Page 2

ARTHUR ANDERSEN & CO. SC

This report is furnished solely for the use of the City of Tempe and the Arizona Supreme Court, Administrative Office of the Courts (AOC), and should not be used for any other purpose. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Thank you for allowing us to be of assistance on this very important project.

Very truly yours,

*Arthur Andersen & Co.*

Copy to: Ms. Karen Karowski  
Arizona Supreme Court - Administrative Office of the Courts

## Project Background

The Arizona Supreme Court - Administrative Office of the Courts (AOC) and the Tempe Municipal Court (Court) on behalf of the City of Tempe (City) requested Arthur Andersen & Co. to assist in a review of the Court. This review was the result of an internal operational review by the City's Organizational Review teams and the takeover of the Court by the AOC. Arthur Andersen & Co. had performed a review of the Court's operations in 1989 and delivered the report to the Presiding Judge of the Court.

The scope of the enclosed report focuses on selected financial and administrative functions of the Court and was performed under the direction of Karen Karowski and Jeannie Lynch of the AOC. The objective of the review was to examine selected Court financial and administrative procedures to develop recommendations for improving the Court's operations.

## Approach

Our approach included an initial diagnostic review to assess the situation, which led to detailed reviews of specific issues. Our approach included:

- Interviewing Court employees, City employees, independent Court contractors, AOC personnel, and employees from other courts and cities

For the purpose of gathering information and verifying our findings, we conducted interviews with Jim Padish, City of Phoenix Public Defender's office, Tempe Municipal Court employees, employees of other courts, independent court contractors, and employees from the Department of Motor Vehicles.

- Reviewing AOC, Court and City procedure manuals

To enhance our understanding of the procedures, we reviewed certain guidelines and manuals. The AOC 1993-94 Consolidated Surcharges manual was used to assist us in calculating surcharges. We reviewed sections of the Minimum Accounting Standards and Compliance Checklist for Arizona Courts that related to the areas we tested in this report. We also reviewed the excerpts from the AOC Defensive Driving School Certification Criteria that related to our Defensive Driving School work. Finally, we reviewed the accounts payable section of the City of Tempe's User Manual to gain a better understanding of Accounts Payable Procedures.

- Reviewing selected individual court files and dockets

We spent a significant amount of time examining Court case files. We reviewed the Court system of documentation and applied that knowledge to case files selected. In certain tasks we also recalculated amounts such as surcharges and amounts owed to the Court by independent contractors.

- Reviewing City general ledger reports for revenues and expenditures

We reviewed the City's general ledger and selected invoices from July 1, 1993 through January 31, 1994 for certain expenditures of the Court. These expenditures related to outside contractors including the public defender (Bertrand Johnson), hearing officer (TEND, Inc.), and Southwest Reporting.

- Reviewing contracts between the Court and independent contractors

We read the contracts between the Court and independent contractors including the public defender, hearing officers and defensive driving school. We reviewed files and records maintained by the Court related to these contractors.

- Reviewing the status of the recommendations made by Arthur Andersen & Co.'s 1989 report

We interviewed Court personnel and observed procedures followed to determine what recommendations had been implemented since the report in 1989.

- Comparing statistical reports from the Court, Police Department and AOC

We reviewed various statistical reports and supporting documents from the Court, the Tempe Police Department and the AOC to help us accomplish the tasks as detailed in this report.

## **Executive Summary**

The detailed findings and recommendations are included on pages 5 through 10 of this report. Some of the more significant issues we noted during our review are summarized as follows:

### **Case File Documentation and Arthur Andersen & Co. Report**

We noted a number of case files where documentation was not adequate. While the exceptions taken individually do not appear significant, we noted a large number of files where the case file documentation should be improved. The case file deficiencies included apparent excessive motions to continue, rubber stamp signatures on orders to appear for sentencing, and improper disposition codes on the Court's computer file. The number and description of the case files we reviewed is included in the remainder of this report. We also noted that only 21 of 73 recommendations, from our last report issued in 1989, have been fully implemented.

The significant number of exceptions in the case files and the lack of implementation of some of our prior recommendations indicate a need for an ongoing review of the controls in place at the Court to ensure that the proper documentation is maintained in the manual case files and the computer system maintained by the Court.

### **Traffic Survival School**

Defendants with multiple prior traffic violations were ordered to Traffic Survival School (TSS) by the Court. Attendance at TSS is normally ordered by the Department of Motor Vehicles as a penalty or a condition of license re-instatement. These court ordered defendants were charged \$150 to attend TSS. The defendants who were ordered to attend TSS by the Court paid \$150, of which the Court received \$30 and ACTS received \$120. According to a list prepared by ACTS, the company which operated the TSS for the Court, 66 defendants were assigned by the Court to attend TSS from January 1993 to February 1994.

According to the Arizona Revised Statutes (ARS 28-446[E]), an entity conducting an "approved training and educational session designed to improve the safety and habits of drivers" can not charge a fee greater than \$25.

We recommend that the Court take any corrective action needed to ensure compliance with Arizona Revised Statutes and the intent of Traffic Survival School.

#### Bond Payable Reconciliation

As of January 1, 1994, the City's general ledger was \$61,990 higher than the Outstanding Bond Report generated from the Court's system. Court personnel are currently reconciling these two records.

We recommend that this reconciliation be performed on a regular basis including cash received and cash disbursed. In addition, any unreconciled dollars should be investigated by the Court and the City and the cause of the difference identified.

#### Implementation of Suggestions

We recommend that the AOC monitor the implementation of the suggestions proposed by City's Organizational Review teams and the recommendations contained in this report. We recommend that the Presiding Judge of the City of Tempe be prepared to report the progress of the implementation of the recommendations to the AOC on their anticipated follow-up visits. Court personnel should utilize the "Minimum Accounting Standards and Compliance Checklist for Arizona Courts" dated September 1993 to ensure that the proper accounting procedures and controls are implemented. The compliance checklist included in this order is to be completed annually by the Court.

## Findings

### 1. Public Defender Contract

The City contracts with a private attorney, Bertrand Johnson, to represent indigent defendants as a public defender for a set rate of \$76,454 per year. The public defender handles a case load of approximately 300 cases per year. This averages to \$255 per case. The City of Phoenix Public Defender Office pays their contracted attorneys approximately \$174 per case. The City of Tucson Public Defender Office spends approximately \$259 per case for its in-house attorneys while the City of Scottsdale pays their contracted attorneys \$175 per case. The City of Mesa Office of Special Programs pays their contracted attorneys approximately \$141 per case.

*RECOMMENDATION - Contracts for public defender services should be reviewed at least annually for performance by the contractor and the fee charged. This review could lead to the renegotiation of a contract with the existing contractor and/or a formal bid process to identify other providers. This procedure will ensure that the City of Tempe is paying competitive prices for its Public Defender services.*

### 2. Public Defender File Review

We reviewed 25 files assigned to the contracted public defender for the number of continuances. Seventeen of the case files contained continuances, however, nine of the seventeen files did not contain a formal motion to continue (with the judge's approval). The selected files averaged three continuances per file. James Padish, Phoenix Public Defender Contract Administrator, estimates the City of Phoenix's Public Defenders average two continuances per case. Mr. Padish stated that when continuances are granted, the judge is fully involved. Mr. Padish was unable to provide average number of appearances by attorneys in open court. Chuck Davies, City of Tucson Public Defender Office, estimates three to four continuances and two to three appearances in open court per case.

*RECOMMENDATION - All Motions to Continue should be formally documented and signed by the judge handling the case. This action would help the Court in determining if multiple continuances are needed and should expedite court proceedings.*

### 3. Hearing Officer

The City contracted with a private company, TEND, Inc., to assist the Court with civil traffic and selected domestic cases as assigned by the Presiding Judge. The contract, which was terminated March 11, 1994, called for biweekly payments of \$6,154 plus \$90 per docket. Per review of TEND's invoices a docket is defined as a time slot on the court calendar and may include multiple cases per time slot.



We reviewed charges for five days included on TEND invoices and noted the following:

- The hearing officers initial's in the case file were different from the hearing officer listed on one invoice.
- The date of service listed in the case file is different from that listed on the invoice for one invoice.
- There were no hearing officers initials, by the activity in the case file, for the date specified on one invoice.

*RECOMMENDATION - The Court should assess how it is going to fill the need for hearing officers on a permanent basis. This need could be filled by hiring full-time employees or competitively bidding the work on a contract basis. Any invoices for contracted services should be matched to court records prior to approval by the Presiding Judge. The invoice and Court records should reflect services rendered.*

#### 4. Defensive Driving & Traffic Survival School Cash Management

The City contracted with one private company, Arizona Consortium for Traffic Safety (ACTS), to conduct a traffic diversion school, including classes in defensive driving and traffic survival. The contract, which was terminated March 11, 1994, required ACTS to collect funds from the defendants at the time of registration. Part of the money received by ACTS is held in trust for the AOC and the Court. ACTS is required to make monthly payments to the AOC and the Court.

ACTS used one of the Court's three VISA machines for credit card payments. The Court deposited the credit card receipts daily and recorded the funds as a credit against the money owed to it from ACTS. The Court paid for the driving school's Visa transaction fees. All of the cash procedures described were verified with Connie Souza, co-owner of ACTS. During the testing of two monthly reconciliation reports of the cash and Visa receipts, we noted eight out of 12 defendants registered for TSS were not included in ACTS records kept by the Court to support the registration. However, the Court did receive payment for these registrants. We also noted that the AOC's copies of the ACTS registration logs were missing pages with registrant names for one day.

*RECOMMENDATION - The Court should competitively bid the defensive driving school contract. The Court should also contract with two or three defensive driving schools to provide services for defendants to make it more convenient for the defendants to attend driving school.*

*RECOMMENDATION - The schools should make weekly or biweekly deposits to the Court for the Court's portion of registrations. The Court should require the schools to obtain their own Visa machine and vendor number. The Court should also ensure that it has all proper documentation to show registration of TSS students.*

#### 5. Defensive Driving Case File Documentation

We reviewed 25 Court case files for defendants that attended Defensive Driving School (DDS). The defendants listed in these files were court ordered by a judge or hearing officer to attend the driving school. We also selected 25 additional Court case files and compared the name in the files to the AOC listing of completions and ACTS school records. Upon completion of the DDS, the School notifies the Court of completion and the case file is updated with the disposition of the matter. In the files reviewed, the dismissal was only recorded on the computer system and was not documented in the original case file.

*RECOMMENDATION - The Court should document the disposition of all cases in the case file or place a printout of the computer system update in the file.*

#### 6. Traffic Survival School

The City contracted with ACTS to conduct Traffic Survival School (TSS). TSS was primarily established to allow individuals with prior multiple traffic violations the opportunity to improve their skills and become safer drivers. Attendance at TSS is normally ordered by the Department of Motor Vehicles as a penalty or condition of license re-instatement. Other courts in Arizona rarely order defendants to TSS.

We reviewed 25 files noting that all defendants were Court ordered to TSS. In one case, there was no judge's or hearing officer's approval next to the assignment of TSS. Through discussions with ACTS, AOC and Court personnel, TSS was used as a way to dismiss current charges if the defendant attended the school. Many of the TSS students were repeat offenders that were not eligible for DDS because the defendant had attended DDS within the last 24 months. We also noted that pre-stamped signature forms were being used as bench slip and/or court orders when a defendant was sent to TSS.

During our review of the case files, we also noted that defendants were being charged \$150 to attend TSS. Through our discussions with Kevin Halcik of the Traffic Safety Office and review of ARS #28-446(E), we noted that a government agency, corporation, or other individual that conducts TSS classes can not charge a fee greater than \$25. The provider teaching the class should receive all funds. Per our discussions with Maurice Evans, the Court was receiving \$30 per defendant sent to TSS and ACTS was receiving \$120. Based on a list prepared by representatives of ACTS, there were 66 defendants assigned by the Court to attend TSS from January 1993 through February 1994.

*RECOMMENDATION - We recommend that the Court immediately review the procedures in effect regarding TSS and take corrective action to ensure compliance with Arizona Revised Statutes. The Court should also consider whether corrective action is needed for the apparent overcharges of prior TSS participants. Additionally, pre-stamped signature forms should not be used for court ordered defendants attending TSS. The judge or hearing officer should sign the appropriate forms at the time of the sentencing.*

### 7. Allocation of Funds

We reviewed 15 case files with fines and surcharges totaling \$2,339 for proper allocation of funds in accordance with the AOC's 1993-94 Consolidated Surcharges Booklet and noted the following:

- Total fine amounts in six files were not rounded to the nearest quarter dollar. The total discrepancy was \$3.50, which represents overcharges to the defendants.
- In four files, the \$12 time payment fee assessed when a defendant does not pay their fine on the day imposed, was not documented in the case file. The money was appropriately collected.
- One file's surcharge amounts were incorrectly calculated for Surcharge #1 - Criminal Justice Enhancement Fund (CJEF) & #2 - Medical Services Enhancement Fund (MSEF). In total, the surcharges were correct but individually they were allocated improperly.

*RECOMMENDATION - The Court should ensure that it follows the surcharge calculation procedures outlined in the "AOC's 1993-94 Consolidated Surcharges Booklet" by periodically recalculating the surcharge amounts and reviewing the supporting case documentation on a sample basis. Although individual errors are immaterial, the effect of these errors could add up to a significant amount. This review will help ensure a defendant is being charged the correct amount and that each surcharge fund is being properly credited and remitted to the Arizona State Treasurer.*

### 8. Case File Documentation

We reviewed 35 case files (20 DUI, 10 Domestic Violence, and 5 Misdemeanors) for proper documentation and noted the following findings:

- Three files had a rubber stamp signature from the judge on the court abstract.
- Four files showed that surcharge amounts had been waived (i.e., Alcohol Abuse Fund, Victims Fund, EM surcharges, etc..)
- Four computer records used a disposition code of 21 (judgment of guilt), but the file indicated that code 11 (plea of guilty) should have been entered.
- Two files contained defendants' copy of the Arizona Traffic Ticket and Complaint form.
- Five files had rubber stamp signatures on orders to appear for sentencing and/or pre-trial conferences.
- One file contained a court abstract with no judges signature.
- One file had a rubber stamp signature on the Order to Show Cause.
- In two instances, the case history recorded a payment of \$5.75, but the file showed no record of that payment.
- Four files had what seemed to be an excessive number of Motions to Continue. Three of the files had 10 Motions to Continue, while one file had nine.

*RECOMMENDATION - The exceptions in the case files discussed above and the lack of implementation of some of our prior recommendations (see point 12 of this report) indicate a need for a review of the controls in place at the Court to ensure that the proper documentation is maintained in the case files and the computer system maintained by the Court.*

#### 9. Arizona Corporation Commission

We obtained the annual report filed with the Arizona Corporation Commission by Southwest Reporting, a servicer of court transcripts. The records showed that the officers for this company are Giselle T. Martin-Grimes and Delores Matherne.

RECOMMENDATION - *There is no recommendation for this item.*

#### 10. DUI Citations and Filings

Representatives of the AOC attempted to reconcile the DUIs reported by the Court to the DUIs reported by the Tempe Police Department. AOC representatives have informed us that the reconciliation is not possible to complete with the information available at this time and that additional reports may need to be generated by the Police Department and the Court to accomplish this task.

RECOMMENDATION - *The Court and Tempe Police Department should set procedures to account for citations and facilitate reconciliation of Court and Tempe Police Department records. This reconciliation should take place monthly to ensure all citations written by the Police Department were received by the Court. Any differences found between the two departments should be investigated and reconciled to ensure that all citations written can be accounted for at the Court level.*

#### 11. Bonds Payable Reconciliation

We reviewed the Outstanding Bond report, as of January 31, 1994, generated from the Court's computer system and compared that to the City's general ledger and noted the following:

Bonds Payable per General Ledger	\$158,660
Bonds Payable per Court	<u>96,670</u>
Difference	<u>\$61,990</u>

The Court personnel are currently reconciling the above two records and noted the general ledger includes restitution money. The Court personnel will be separating restitution funds into a separate Restitution Liability account in the general ledger.

RECOMMENDATION - *The Court should go through each file where bonds were posted and verify the detail on the Outstanding Bond report. The Bond Liability account should be reconciled monthly along with cash received and cash disbursed. The Court should schedule bond forfeiture hearings as needed. Any unreconciled dollars should be investigated by the Court and the City and the cause of the difference identified.*

RECOMMENDATION - *The Court should also ensure that bond funds and restitution funds are not accounted for in the same account. If restitution funds are identified in the Bond Liability account, those funds should be immediately remitted to the victims.*

## 12. Update of 1989 Arthur Andersen Report

Arthur Andersen & Co. conducted an Operational Review of the Court in 1989 and provided the Court with a variety of improvement opportunities. The Court has fully implemented 21 of the 73 opportunities discussed in our 1989 report. Through discussions with Court personnel and observing Court procedures, we determined the status of the recommendations, which is summarized below. Some of the changes to procedures and upgrades to automation makes selected improvement opportunities no longer applicable. Other recommendations are partially implemented or implementation is in-progress. Attached to this report is an appendix that references our 1989 report and indicates which recommendations have been implemented.

Fully Implemented	21
Partially Implemented	28
Not Implemented	21
Not Applicable	3

Many of the 28 partially implemented recommendations are being addressed by computer programming changes. The City's Information Systems personnel are in the process of modifying the system to better meet the functional needs of the Court.

*RECOMMENDATION - The Court should re-address the findings and improvement opportunities in conjunction with the recent review by the City's Organizational Review team. For items to be implemented, a time table, action plan and responsible individual should be identified. We recommend that the Presiding Judge of the Tempe Municipal Court should report the implementation progress to the Presiding Judge of the Superior Court and the AOC.*

REFERENCE TO 1989 ARTHUR ANDERSEN & CO. REPORT

<u>ITEM #</u>	<u>1989 REPORT PAGE #</u>	<u>1989 OBSERVATIONS</u>	<u>1994 STATUS</u>
1	II-2	The Court did not have a formal policies manual.	N
2	II-2	The Court System did not have a formal written procedures manual nor are there formal task descriptions.	N
3	II-2	The organization structure encouraged individuals to handle only certain assigned job tasks, although it may have been more efficient to "share" tasks.	N
4	II-3	Control over case files was inefficient. As a result, files were located throughout the office under different filing systems.	N
5	II-3	Unclear lines of supervisory responsibility. The Court is in the process of implementing a new organization structure.	P
6	II-4	Excessive phone calls caused disruption of job duties. Many of these calls would have been more efficiently handled by a general operator.	N
7	II-4	The Court System could not readily determine the cost it incurs to perform any task or series of tasks for fee structures.	N
8	II-6	All summons were manually prepared with no automated interface. The computer systems' programming is being modified to reflect the required functionality.	P
9	II-7	Listing of courtroom assignments was manually prepared and posted near the front door and on courtroom doors. The computer systems' programming is being modified to reflect the required functionality.	P
10	II-7	Case status is documented on the file jacket and then entered into the Court's computer system.	F
11	II-7	A manual pending file was maintained to allow a 10 day period for defendants who "Fail to Appear" prior to issuing a warrant. This has now been computerized.	F
12	II-8	There was a separate log used to schedule criminal and civil court cases. The computer systems' programming is being modified to reflect the required functionality.	P

F = Fully Implemented P = Partially Implemented N = Not implemented  
N/A = Not Applicable

REFERENCE TO 1989 ARTHUR ANDERSEN & CO. REPORT

<u>ITEM #</u>	<u>1989 REPORT PAGE #</u>	<u>1989 OBSERVATIONS</u>	<u>1994 STATUS</u>
13	II-8	A manual log was used for initial scheduling of dates and to create the draft calendar. The draft was reviewed before creating the final calendar. The computer systems' programming is being modified to reflect the required functionality.	P
14	II-8	There was no checklist maintained to follow up on Motions to Continue phoned into the Court by attorneys.	N
15	II-8	The criminal court calendar was manually prepared. The computer systems' programming is being modified to reflect the required functionality.	P
16	II-9	Changes to scheduled court dates required manual revision to the existing calendar, manual input to the log book and manual update of the daily log sheet. The computer systems' programming is being modified to reflect the required functionality.	P
17	II-9	A manual daily log sheet was prepared for all calendar changes. This was sent to all prosecutors to notify them of new court dates.	N
18	II-9	Bench slips for future trial dates were manually prepared by the judge. The judge obtained potential future dates from the calendar clerk prior to the hearings. The computer systems' programming is being modified to reflect the required functionality.	P
19	II-10	Bench slips were manually prepared. The computer systems' programming is being modified to reflect the required functionality.	P
20	II-10	A listing of appearances was manually typed each day to provide notice to the prosecutors of scheduled appearances. The computer systems' programming is being modified to reflect the required functionality.	P
21	II-11	Case status was documented on the file jacket and then entered into the Court's computer system.	F

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REFERENCE TO 1989 ARTHUR ANDERSEN & CO. REPORT

<u>ITEM #</u>	<u>1989 REPORT PAGE #</u>	<u>1989 OBSERVATIONS</u>	<u>1994 STATUS</u>
22	II-12	Individuals notified for potential jury duty were instructed to call the court on Tuesday afternoon. All calls were forwarded to a criminal clerk without any screening (which disrupts the work flow of the clerk).	F
23	II-13	To issue a "Failure to Appear" or "Failure to Pay" warrant, the clerk reviewed the files on a periodic basis and pulled the files in the pending warrants section, manually reviewed the jacket and/or contents to determine if a warrant should be issued.	N
24	II-13	Warrants were manually typed. The computer systems' programming is being modified to reflect the required functionality.	P
25	II-14	A warrant was recalled manually by a court clerk when an individual appeared.	F
26	II-15	The number of parking violations needed to create the boot list could not be easily varied. Consequently, individuals that received a fifth ticket could pay only one ticket to prevent their name from being eligible for the boot.	F
27	II-15	Parking officers reviewed the boot list when writing a citation and called the Court to verify a vehicle has not paid any citations reflected on the report.	N
28	II-17	Citations written by the Police Department took approximately five days to be delivered to the Court System for data entry. Citations are now received within two days.	F
29	II-18	Case status was documented on the file jacket and then entered into the Court's computer system.	F
30	II-19	There was a separate log used to schedule criminal and civil court cases. The computer systems' programming is being modified to reflect the required functionality.	P
31	II-19	A log was used for initial scheduling of dates and used to create the draft calendar. The draft was reviewed before creating the final calendar. The computer systems' programming is being modified to reflect the required functionality.	P

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N/A = Not Applicable



REFERENCE TO 1989 ARTHUR ANDERSEN & CO. REPORT

<u>ITEM #</u>	<u>1989 REPORT PAGE #</u>	<u>1989 OBSERVATIONS</u>	<u>1994 STATUS</u>
32	II-19	The civil court calendar was manually prepared. The computer systems' programming is being modified to reflect the required functionality.	P
33	II-19	Changes to scheduled court dates required manual revision to the existing calendar, manual input to the log book and manual updating of the daily log sheet. The computer systems' programming is being modified to reflect the required functionality.	P
34	II-20	Bench slips for future trial dates were manually prepared by the judge. The judge obtained potential future dates from the calendar clerk prior to the hearings. The computer systems' programming is being modified to reflect the required functionality.	P
35	II-20	A daily log sheet was manually prepared for all calendar changes. This was sent to all prosecutors to notify them of new court dates.	N
36	II-21	Once a month, a clerk went through all final civil dispositions over one year old to pull for destruction of the document.	N
37	II-21	Bench slips and subpoenas must be typed individually. The computer systems' programming is being modified to reflect the required functionality.	P
38	II-22	A pending file was used for cases awaiting a court appearance. Files were grouped by case status, therefore file research requires looking in a number of places.	N
39	II-22	The monthly Supreme Court Report was completed manually by a senior court clerk who manually recomputed the monthly activity and statistics. The computer systems' programming is being modified to reflect the required functionality.	P
40	II-22	A copy of all citations was sent to the Motor Vehicle Department to update the defendants' driving record.	N
41	II-23	Case status was documented on the file jacket and then entered into the Court's computer system.	F

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REFERENCE TO 1989 ARTHUR ANDERSEN & CO. REPORT

<u>ITEM #</u>	<u>1989 REPORT PAGE #</u>	<u>1989 OBSERVATIONS</u>	<u>1994 STATUS</u>
42	II-24	Fees were collected after the judge's consent to grant the Order of Protection or Harassment Injunction, rather than before any processing was completed by Court staff.	N
43	II-24	A letter was manually typed to notify the plaintiff that the process server could not deliver the Order of Protection or Harassment Injunction to the defendant.	N
44	II-25	Citations sent to collections were filed separately until the reconciliation was completed.	N/A
45	II-25	All civil traffic citations were reviewed manually to determine which citations must go to the collection agency. The computer systems' programming is being modified to reflect the required functionality.	P
46	II-25	All citations sent to collections were manually reconciled to a collection agency confirmation. The computer systems' programming is being modified to reflect the required functionality.	P
47	II-25	Jackets and citations were pulled to record payment of receivables sent to collections.	N
48	II-26	A phone call was made to City Hall to obtain lockbox receipt information which would otherwise be received and used the next day.	N
49	II-26	Lockbox payments were entered into the current information system, however, no reports were generated.	F
50	II-27	Payments were posted to case file jacket, rather than electronically.	F
51	II-27	Cash register receipts were stapled into the case file jacket immediately after payment. These receipts were reconciled to the notes on the file jacket. The jacket was forwarded to data entry for input.	F
52	II-27	The white citation copy on file was imprinted by the cash register as to the date and amount paid. The citations were forwarded to data entry for input.	F
53	II-28	Cash receipts were processed manually.	F

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REFERENCE TO 1989 ARTHUR ANDERSEN & CO. REPORT

<u>ITEM #</u>	<u>1989 REPORT PAGE #</u>	<u>1989 OBSERVATIONS</u>	<u>1994 STATUS</u>
54	II-28	A cash receipts report was prepared manually from the register tape summarizing the receipts for the day. This report was used to reconcile to the deposit slip.	F
55	II-30	There was no monetary penalty for paying a ticket later than the scheduled time.	F
56	II-30	The Court System did not send any correspondence to individuals notifying them of: (1) issuance of citation; or (2) payment past due. Although individuals were notified when their license was suspended or they were warranted, such letters would expedite the collection effort.	N
57	II-31	A daily cash report was prepared manually from the cash register tape.	F
58	II-32	The computer retained data on all NSF checks since 1986, even if subsequent payment has been received.	N/A
59	II-32	There was a two to three week time period between notification of an NSF check and notifying the Department of Motor Vehicles to suspend a drivers license.	F
60	II-32	The computer system printed a report of the NSF checks since 1986 that was not used. Individuals that presented the Court with an NSF check were allowed to continue paying by check. The NSF report is no longer used, but individuals who had written NSF checks are allowed to continue to pay by check.	P
61	II-32	The Court System accepted personal checks for payment of fines, which increased processing resulting from NSF checks.	N
62	II-33	Documentation was not made on the file of individuals who write NSF checks to the Court.	N
63	II-34	There were no procedures in place to ensure the proper control over and security of case file jackets. All jackets were not controlled in a central location.	P

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REFERENCE TO 1989 ARTHUR ANDERSEN & CO. REPORT

<u>ITEM #</u>	<u>1989 REPORT</u>		<u>1994 STATUS</u>
	<u>PAGE #</u>	<u>1989 OBSERVATIONS</u>	
64	II-35	The files were used for updating and inquiry, so a significant amount of time was spent tracking down files. The Court's computer system was used to inquire as to case status as an aide to locate the file.	P
65	II-36	A significant number of file jackets and loose citations were stored at individuals' desks. The physical file jacket served as the means to update case status. The computer system has been automated to capture all significant information, but many file jackets and loose citations are still at individual desks for a number of days.	P
66	II-37	Jackets and loose citations were filed according to their current status, in alphabetical order. Some individuals file alphabetically used only the first two letters of a defendant's last name, while others use the whole last name.	F
67	II-37	All citations and jackets pulled for warrants were manually coded to reflect the updated case status.	N/A
68	II-37	The Court utilized a manual records management system. The computer systems' programming is being modified to reflect the required functionality.	P
69	II-38	There were no standard letters or notices.	F
70	II-38	The Court System clerk input all case updates and fines to the computer but did not know the amount of fines not collected. The accounts receivable software is being modified to provide more detailed information.	P
71	II-38	All correspondence was manually typed, including envelopes. There was a number of correspondence that went to attorneys that had to be manually retyped. A database of frequently used forms and key attorneys has been created. The mailing list is in the process of being customized and edited.	P
72	II-39	There was no personal computer available for clerks use for word processing, calendaring, budget projects, etc.	F

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REFERENCE TO 1989 ARTHUR ANDERSEN & CO. REPORT

<u>ITEM #</u>	<u>1989 REPORT PAGE #</u>	<u>1989 OBSERVATIONS</u>	<u>1994 STATUS</u>
73	II-39	There were few reports generated by the computer. Modifications have been made to create reports related to parking batch edits, subject to boot, warrants, subpoenas, letters, warrant recalls, bench slips, cash, summons, calendars, default listings, case status and daily transactions. No changes have been made to budget, Supreme Court reports, accounts receivable aging, delinquency, and collection notices.	P

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N/A = Not Applicable

# APPENDIX D

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REPORT ON THE CITY COURT  
TEMPE ORGANIZATIONAL REVIEW TEAM  
November 4, 1993

**REPORT ON  
THE CITY COURT**

by  
**ORGANIZATIONAL REVIEW TEAM #3**

presented to:  
**STEERING COMMITTEE**

**November 4, 1993**

## **EXECUTIVE SUMMARY**



## EXECUTIVE SUMMARY

### TOPIC 1 STAFFING

#### ISSUE 1.1      What is the Relationship Between Staffing Levels and Workload Indicators?

#### OBSERVATIONS:

- In considering the staffing levels of the City Court, the Organizational Review Team reviewed positions based upon their level in the organization. Chart 1 on page 3-6 reflects the Court's current organizational structure.

#### Judges and Hearing Officers

- The City Court currently employs two full-time judges and two part-time judges. These judges work a total of 134 hours per week, an equivalent of 3.35 FTE judges per week. Tempe is the only court that has a contract with an outside provider for hearing officer services. Hearing officers preside at civil traffic hearings rather than judges. The City of Mesa is the only other municipal court who uses a hearing officer. Mesa's one Hearing Officer is a city employee. Judges preside over civil traffic hearings in other Valley municipalities.
- The Tempe City Court contracts with TEND, Inc. for the provision of hearing officer services. Traffic Division staff indicated to the team that, on average, there are two hearing officers in the Court daily. Furthermore, TEND, Inc. provides hearing officers for civil traffic trials an additional four hours per week. TEND, Inc. reported to the team that its staff worked 5,207 hours during FY 1992/93. The total hours are equivalent to 2.5 FTE hearing officers.
- The most significant indicator to determine the Court's workload is the total number of original case filings. The original case filings were obtained from the Arizona Supreme Court's annual publication *The Arizona Courts, Limited Jurisdiction Courts, Data Book*. Chart 2 on page 3-7 illustrates the five year history of original filings with the City Court. Total case filings have decreased by 24% over the five year period. Chart 3 on page 3-8 illustrates the Criminal Division filings. Criminal Division filings, e.g. criminal traffic and misdemeanor filings, have remained fairly constant. Chart 4 on page 3-9 illustrates the number of civil traffic filings. Civil traffic filings have decreased by 36%.

- The total number of judges and hearing officers in the Tempe City Court is 5.85 FTE. Chart 5 on page 3-10 illustrates the judicial staffing levels of comparable Valley municipal courts. The Tempe City Court has a larger judicial staff than all other jurisdictions. Chart 6 on page 3-11 compares the number of filings per judge. Tempe has the lowest number of filings per judge of all jurisdictions surveyed.
- Chart 7 on page 3-12 compares the number of original criminal filings per judge, excluding hearing officers. Tempe has the greatest number of filings per judge. This second comparison is only relevant when Tempe is compared to Mesa, as both courts use hearing officers to handle civil traffic complaints. In all other jurisdictions, judges handle the civil traffic filings. When considering both comparisons, Tempe either has the best case filings per judge ratio, or the worst, depending on which comparison one considers to be most relevant. Both comparisons, however, have their limitations.
- The team analyzed the court/bench time of the judges in the Criminal Division and discovered that the scheduled court/bench time for the three courtrooms averaged 76.8 hours per week. The actual average court/bench time for two sample four week periods, taking into account continuances and cancellations, was 63.6 hours.
- Tempe is the only city in which the Presiding Judge is responsible for the day to day administration of the City Court. Issue 4.1 discusses the judicial staff size in further detail.

#### Supervisory Staff

*Admin ✓*

- The City Court is divided into four divisions: Administration, Criminal, Traffic, and Fines Administration. The Presiding City Judge is responsible for the supervision of the Administration Division and directly supervises the two Court Services Supervisors in the Traffic and Criminal Divisions, and the Court Fines Administrator. The Criminal Division's Court Services Supervisor supervises a total of eleven staff members. The Traffic Division's Court Services Supervisor supervises eight staff members. The Court Fines Administrator supervises two employees.
- In considering the need for divisional supervisors, span of control is an important consideration. The team surveyed other municipal courts and found that the Tempe City Court was not unusual in having the two Court Supervisors and one Fines Administrator. The Court Fines Administrator position was created as a result of a grant which the City Court received from the Judicial Collection Enhancement Fund in FY 1991/92.

- The City Court has slightly more than doubled the size of its clerical staff while tripling the size of its supervisory staff. The appropriate number of supervisors for the City Court is addressed in further detail in Issue 4.1.

#### **Clerical and Secretarial**

- The team surveyed the clerical/secretarial staff of four other city courts and discovered that Tempe's clerical/secretarial staff size is in the mid-range of these cities. Chart 8 on page 3-13 illustrates this comparison. The workload was considered for each city's clerical staff. Tempe has the largest number of case filings per staff person as demonstrated in Chart 9 on page 3-14.
- The team discovered that the staff had many frustrations that centered around the Judicial Software System. The team, however, was unable to determine if the workload was excessive as a result of the numerous problems that have resulted from the implementation of the new computer system. It appears that clerical staff are completing necessary clerical work.
- The Tempe City Court has a smaller staff size than any other comparable court in Arizona. However, because of the problems created by the Judicial Software System, the team does not believe that additional staff can be recommended until the system is fully implemented.

#### **RECOMMENDATION:**

- Evaluate the need for additional clerical/secretarial staff when the Judicial Software System has been fully implemented. This evaluation should include comprehensive observation of clerical/secretarial staff during working hours and should take into account future workloads.

### **ISSUE 1.2      Is the Current Arrangement for Hearing Officer Services Cost Effective? Should the Hearing Officers be City Employees?**

#### **OBSERVATIONS:**

- The City Court contracts with TEND, Inc. to provide traffic hearing officer services, pro tem judicial services (for traffic trials), and clerical services as needed. The amount of the contract is \$6,154.00 biweekly, or \$160,004.00 annually. The Court also pays TEND, Inc. \$90.00 per trial docket (one or more trials scheduled on a certain day). During FY 1992/93, the City Court paid \$46,241 for these trial dockets. During fiscal year 1992-93 Tempe paid TEND, Inc. a total of \$206,245.00. TEND, Inc. pays the City \$200 per month in rent for their workspace for a total of \$2,400 per year.

- TEND, Inc. indicated to the team that a total of 5,207 hours were worked by the hearing officers during FY 1992/93. Using the numbers provided by TEND, Inc., the City Court is paying \$39.61 per hour for its services. These hours are the equivalent of 2.5 FTEs.
- The Traffic Division staff indicated that there are almost always two hearing officers available each day. One of the two hearing officers on duty usually leaves work at approximately 3:00 p.m. A hearing officer presides over those traffic trials which are scheduled in the evening which results, on average, of one hour's work, four times per week. Based upon the information provided by the Traffic Division staff, the Organizational Review Team determined that the hearing officers worked approximately 4,368 hours during the year. The hourly cost for hearing officer services is approximately \$47.22.
- Chart 10 on page 3-18 illustrates the number of original civil filings in the Traffic Court compared with the amount of the contract for hearing officer services for the last five years. ~~Original civil filings have decreased by 36% over the last five years. The amount of the contract awarded to TEND, Inc. has increased by 227% from \$70,200 in FY 1988/89 to \$160,004 in FY 1992/93. Original civil filings have dramatically decreased over the period.~~
- The appropriate number of hearing officer positions is 2.5 FTE. Significant savings could be achieved by placing two hearing officers on the City's payroll rather than contracting out for these services. The team estimates the salary, including benefits would be approximately \$40,000 per year for a total expenditure \$80,000.
- The Presiding City Judge has indicated to the team that the Court Services Supervisor currently assigned to the Traffic Division will be moved into the vacant position that has resulted from the recent resignation of the Criminal Division's Court Services Supervisor. This action will leave a vacancy in the Traffic Division. As indicated in Issue 2.1, the Court Services Supervisor in the Traffic Division had been taken away from his regular duties to help implement the Judicial Software System, resulting in the Traffic Court staff operating as a nearly self-directed work group. The responsibilities for the computer system will move with him to the Criminal Division. The team believes the position of Court Services Supervisor in the Traffic Division should be eliminated and replaced with a new position called Administrative Hearing officer. This position would serve two roles, to act as both the supervisor in the Traffic Division and as an "as needed" hearing officer. This will provide the division with a total of 2.5 hearing officers.

#### RECOMMENDATIONS:

- Repeal the contract for hearing officer services with TEND, Inc. This will result in an annual savings to the City of \$206,245.

- Create two Hearing Officer positions. This would require that a job analysis be performed by the Human Resources Department to determine the job description and pay range for the position. This will result in an approximate annual expenditure of \$80,000.
- Eliminate the Court Services Supervisor in the Traffic Division. This would result in an approximate annual savings of \$48,000.
- Create an Administrative Hearing Officer position. This will result in an estimated annual expenditure to the City of \$45,000 (salary and benefits).

The above recommendations will result in an approximate annual savings of \$129,245. This amount reflects the loss of rent paid by TEND, Inc. to the City for their workspace.

### **ISSUE 1.3      Is There a Need for a Classification and Compensation Study for Positions in the Court?**

#### **OBSERVATIONS:**

- Court staff indicated their concerns to the team regarding the classification of their job positions. Their concerns centered around the diversity of tasks that each perform. Certain clerks are involved in court room procedures, others are primarily involved with accounting and office duties, and still others are involved in the scheduling and organizing of court dockets. There are certain responsibilities that all of the clerical staff share.
- The organizational structure of the Court has changed. With creation of different divisions in the Court, it appears that responsibilities have become dissimilar. The team also reviewed job descriptions and noticed that no duties related to use of the Judicial Software System or any other computer system were included. With the implementation of the new computer system in April of 1993, the team believes that job duties have been modified to such an extent, that the positions recommended should be evaluated from a classification standpoint.

#### **RECOMMENDATION:**

- Request that the Human Resources Department conduct a classification and compensation study on the following positions: Court Services Supervisor (Criminal Division), Senior Court Services Clerk, Court Services Clerk, Senior Administrative Clerk, Administrative Clerk II.

**TOPIC 2  
AUTOMATED  
SYSTEMS**

**ISSUE 2.1      What is the Current Status of the City Court's Judicial Software System? Has the City Court Adequately Responded to Staff Concerns about the System? Are Internal Controls in Place to Assure Financial Accuracy?**

**OBSERVATIONS:**

- The Tempe City Court purchased the Judicial Software System from Indiana County Data Service Inc. (ICDS) in 1989 in response to a recommendation included in Arthur Andersen and Company's *City of Tempe Courts System Operational Review*. The Executive Summary of the Andersen report is included in the Appendix of this report. Andersen recommended that the City Court purchase a new computer system because the system which the Court had in place at that time was inadequate for case management, collections, and cash handling procedures. ICDS went out of business in May of 1992. At that time, the Information Systems Division of the Management Services Department was given the responsibility of completing and maintaining the Court's computer system. The Judicial Software System came on-line in April 1993 and has been partially operational since this time.
- The team has observed several difficulties with the present system including the following:
  - (a) **Documentation:** Written documentation for the Judicial Software System has not been available to City Court staff. With the assistance of a technical writer, the Information Systems Division has prepared a system manual, however, this manual is neither complete nor up to date.
  - (b) **Training:** City Court staff have had little training on the new automated system.
  - (c) **Cash Handling and Other Controls:** The system has addressed certain cash handling needs. The team has noted, however, that the system provides clerical staff with the ability to backdate payments, a function that could allow for a misappropriation of cash receipts. In addition, passwords are used by multiple staff rather than being assigned individually.
  - (d) **Staff Input:** Staff concerns about the computer system do not appear to have been addressed in either a proper or timely manner. Staff have brought several concerns to the Court Services Supervisor's

attention, only to have them ignored or disregarded. The team obtained a list of computer problems that were submitted by the City Court to the Information Systems Division as priorities. This list did not appear to contain any of the items that the clerical staff had communicated to their supervisor as a problem.

- (e) **Response Time:** The Judicial Software System shares a mainframe computer with two Police Department software systems, ALERT and RESPONSE CAD. City Court staff experience regular delays in response time. At the present time, the automated court system does not have the ability to print forms, although this is planned for a future module. The team was told, however, that a forms printing module may have the potential to slow the system down even further if the system continued to run on the same computer hardware as the two Police software systems.
- (f) **Issuance of Arrest Warrants:** The City Court currently does not have the ability to print forms from the automated system and is unable to print any arrest warrants issued by the City Court. As a result of this problem, warrants were not issued from April 3, 1993 through August 3, 1993. Please refer to Issue 6.6 in this report for additional information about warrants.
- (g) **Staff Morale:** Since its implementation, staff have routinely experienced numerous problems with the Court computer system. These problems have had a negative effect upon the morale of City Court employees.

## RECOMMENDATIONS:

- Develop a formal list of staff concerns regarding the Judicial Software System for the review and action of the Presiding City Judge, the Court Services Supervisors, and the Information Systems Division of the Management Services Department.
- Provide the City Court staff with a written report from the Presiding City Judge that addresses the formal list of staff concerns mentioned above. This report should address each concern and state the reasons why their wishes can or cannot be implemented.
- Establish a Judicial Software Users Group to provide City Court staff with a forum to communicate their problems and concerns with the Judicial Software System. This group should establish a formal procedure that would encourage staff to provide written comments, suggestions, concerns, etc. about the system.

**TOPIC 3  
FACILITIES**

**ISSUE 3.1      Is There a Need for Security Measures in the City Court to  
Protect Staff and the Public?**

**OBSERVATIONS:**

- Tempe City Court staff have been concerned for some time about the lack of security measures within the Tempe City Court. After being contacted by Court employees, Sergeant Al Taylor of the Tempe Police Department listened to staff concerns and toured the facility to identify potential security problems during the Fall of 1992. A number of potential solutions were discussed at the time of the meeting but no further action was taken.
- Employees at all levels of the organization are concerned about their personal safety and that of the public and indicated that there was an immediate need for security measures within the courts. Several judges indicated to the team that they were seeing more hardened criminals in the City Court. This is due to the fact that some crimes are "borderline" offenses that were once considered felonies by prosecutors in the Maricopa County Attorney's Office but are now frequently sent down to the municipal court as misdemeanors. In addition, municipal courts are hearing an increased number of domestic violence cases and other volatile disputes.
- The Court has only implemented two minor security controls. A panic button was installed in the Court Fines Administrator's office at the time the area was remodeled for the new Fines Administration Division. A mechanical push-button combination lock has recently been installed on the door between the Traffic Court work area and the Police Department Lobby.
- There are some practices within the Court facility which pose safety risks to Court employees and the general public. Doors to work areas in the Criminal Division remain unlocked throughout the workday. The employee entrance door also remains unlocked all day and a violent individual could walk directly into two courtrooms, as well as into other private offices. The employee entrance door is out of the line of sight of employees working at the Criminal Division counter and thus cannot be monitored.
- The City Court has not followed the *Administrative Guideline Related to Carrying Deadly Weapons in City Government Offices and Requiring Offices to be Posted* that was issued by the City in June of 1992.
- The Traffic Division's facilities will expand within the next two years yet there are no security measures planned. Given the growing incidence of violence in the courts and the widespread concern of the staff regarding this issue, the



team believes that it is critical that security concerns be addressed in any plans for an expanded facility.

- There have been a number of violent incidents in courtrooms and court facilities throughout the nation and, in response to this growing problem, all of the municipal courts in the Phoenix metropolitan area have taken steps to minimize the possibility of such an event occurring in their courts.
- The Organizational Review Team believes that there is an immediate need to improve security within the Tempe City Court. By failing to protect the safety of City Court staff and the general public, Tempe could be liable if anyone were injured as a result of a violent incident in the City Court. A number of security measures could be implemented immediately with minimal cost to the City.

### RECOMMENDATIONS:

- Implement the following security measures immediately:
  - Provide one public entrance into the Criminal Division. The employee entrance door should be locked and used only as an emergency exit. This would require moving the automatic door opener for the disabled to the main entrance. The expenditure for this recommendation would be minimal.
  - Install a mechanical push-button combination lock between the Police Department and the City Court and on the door leading into the Criminal Division work area. This will result in an approximate expenditure of \$600.
  - Install fifteen panic buttons at the following locations: one at the judge's bench in each of the three Criminal Division courtrooms, one in each of the three judges' chambers, two at the Criminal Division Counter, one in the Court Services Supervisor's office in the Criminal Division, two at the Traffic Division counter, one in the Court Services Supervisor's office in the Traffic Division, one in each of the three hearing officers' offices. The existing panic button in the Fines Administrator's office should also be upgraded. This will result in an approximate expenditure of \$1,480.
  - Post signage prohibiting the carrying of deadly weapons into City facilities at the public entrances to the Criminal and Traffic Divisions according to the procedure included in the *Administrative Guideline Related to Carrying Deadly Weapons in City Government Offices and Requiring Signs to be Posted*.
  - Provide security training to all court employees.

- Initiate a security study of Court facilities by Tempe Police Department Crime Prevention officers which would incorporate the *Crime Prevention through Environmental Design* (CPTED) standards.
- Upon the outcome of the Police study of Court facilities, the Presiding City Judge, with the advice of the City Attorney, should make a determination as to what are the acceptable security risks within the City Court and what the potential liabilities to the City would be if further security measures such as security guards and metal detectors are not provided.
- The Presiding Judge should explore the feasibility of imposing by ordinance a surcharge on all fines, sanctions, penalties, and assessments imposed by the City Court. The funds generated through this fee would be used to enhance court security and other operational necessities.

### ISSUE 3.2      Are the Traffic Court Facilities Adequate for its Operations?

#### OBSERVATIONS:

- During the course of its review of the City Court, the Organizational Review Team heard many concerns from Traffic Division staff and the Presiding City Judge about the lack of space in their work area. Their concerns related to space limitations in three primary areas: work stations, file storage, and the waiting room.

- (1) **Work Stations:** Six individuals have approximately 200 square feet (20 feet by 10 feet) in which to work. This results in each person having approximately 33 square feet (5 feet by 6 feet) of work space. The three desks located in this area take up 58 feet of the 200 square foot area. According to the City's *Facilities Master Plan*, published in February of 1992, the following space should be provided for each of the following positions:

Senior Court Services Clerk	108 square feet
Court Services Clerk (2)	136 square feet
C.O.E. (2)	106 square feet
Total	350 square feet

The Traffic Division's 200 square feet of work space appears to be inadequate for its operations.

- (2) **File Storage:** Files are stored on shelves located in a hallway that near the clerical work area, wind around the court room, and end near a door that provides access to the Police Department, a distance of approximately 36 feet. A portion of the division's staff break room was converted into work space and files are now being stored in that area as well. The current location of the file causes considerable

inconvenience to the staff since the files are accessed on a continual basis throughout the day basis and are located a considerable distance from the public counter.

- (3) **Waiting Area or Lobby:** The space allocated as a waiting area is approximately 15 feet by 20 feet, or 300 square feet. The waiting area is routinely overcrowded and waiting lines often extend outside of the entry doors to the division. Fire Prevention indicated that, even if this area was entirely full of people, it would not violate the fire code.
- (4) **Court Room:** A court room in the division is underutilized and is much larger than is actually needed. This is demonstrated by the fact that inactive files are stored in the juror area of this court room.

- There are future plans to expand the City Court's facilities. These plans are dependent upon the relocation of the Human Resources Department. Several options that could be considered in the interim to relieve the overcrowding. These include moving the traffic school (a contractor who rents space from the City) to another location and/or reallocating space currently used by the Human Resources Department, the Police Department, and the Traffic Division courtroom.
- If the Human Resources Department is relocated within a year from the time of this report, it is the belief of the Organizational Review Team that no immediate action needs to be taken. If, however, it appears that Human Resources will not be moved within that time, the team believes that some of the options listed above should be considered to relieve the overcrowded conditions that confront both employees and citizens.

#### **RECOMMENDATION:**

- The Presiding City Judge should closely monitor the progress of relocating the Human Resources Department. If it becomes apparent that this will not be accomplished within twelve months from the time of this report, the Presiding City Judge should work with the Community Development Department to develop options for reallocating space within the Police/Courts building to the Traffic Division.

**TOPIC 4  
ORGANIZATIONAL  
STRUCTURE**

**ISSUE 4.1**

**Is the Current Organizational Structure Best for the Efficient Operation of the City Court? Is There a Need for a Court Administrator?**

**OBSERVATIONS:**

- The City Court is divided into four divisions: Criminal, Traffic, Fines Administration, and Administrative. The Criminal and Traffic divisions are each supervised by a Court Services Supervisor. The Fines Administration Division is supervised by the Court Fines Administrator. In addition to his role as the department's chief administrator, the Presiding City Judge is responsible for the supervision of the Administrative Division.
- The team's analysis of the current organizational structure of the City Court was the result of three areas of investigation. The City Court was reviewed to determine if it was operating effectively and efficiently and to determine if all necessary municipal court functions were being performed. Secondly, the team considered whether there had been any prior analysis of the City Court's organizational structure. Finally, the team examined the organizational structure of other municipal courts.

**Court Operations**

- The Organizational Review Team observed the operation of the City Court's proceedings. During those times when the Presiding City Judge was on the bench or absent from the Court altogether, the team was left with the impression that the City Court lacked direction.
- The Presiding City Judge has two roles, one as the court administrator responsible for the management of the day to day operations of the court, and another as a judge serving on the bench of the Tempe City Court. It is the Organizational Review Team's observation that this situation, in which one person is attempting to fulfill two jobs, has resulted in certain administrative City Court functions that have not been properly managed. The following areas have been identified by the team as management concerns:

**Fiscal Administration**

- (a) Other than implementing the Judicial Software System, the City Court has not addressed the cash handling inadequacies addressed in both the 1989 Arthur Andersen operational review

or the 1990 audit conducted by the Internal Audit section of the Management Services Department. A copy of the report published by the Internal Audit section is included in the Appendix of this report. Issue 6.4 in this report provides additional information concerning the cash handling procedures.

- (b) The City Court has not monitored the contracted services used by the court to assure they are cost-effective and accountable to the City. The only contracted service to be awarded through a request for proposal process was that for alcohol screening. All other contracted services such as the hearing officers, the traffic school, and the public defender have not gone through a competitive process for at least ten years. Issue 6.1 in this report provides additional information concerning the public defender.

#### **Human Resource Management**

The job performance of key supervisors in the City Court, such as the two Court Services Supervisors, has not been regularly evaluated by the Presiding Judge. The team found that at least one of the Court Services Supervisors had not been evaluated on an annual basis.

#### **Caseload Management**

The City Court is not evaluating pending caseloads. The City Court should develop and implement systems, both automated and procedural, that would support effective calendar management. When the team inquired as to whether the Court evaluated these caseloads, it was told that no formal evaluation was being conducted.

#### **Jury Management**

The Court is not managing the jury system in the most efficient and cost-effective manner. The team discovered that the City Court has been paying the Jury Commission for a service that could be handled in-house. Issue 5.4 provides further information on this subject.

#### **Interdepartmental and Intergovernmental Liaison**

- (a) The City Court has minimal participation in local intergovernmental organizations that discuss court administration. The Organizational Review Team found that other municipal courts in the Phoenix metropolitan area have Court Administrators who serve as liaisons to other courts and governmental agencies. These administrators meet on a regular basis to discuss collaboration, the use of integrated automated systems, and the facilitation of change, etc.

- (b) The City Court has not accomplished those action items for which it was assigned responsibility during the April 1993 criminal justice retreat. These include such key items as sketching out the mechanics of a division system for the Court and outlining staffing needs and issues for the division system.

#### **Facilities Management**

- (a) The City Court has not addressed the security concerns of staff. Issue 3.1 addresses the court security issue in greater detail.

#### **Other Concerns**

- (a) The Court did not issue arrest warrants from April 13, 1993 through August 3, 1993. The fact that warrants were not issued during this time had an adverse impact upon the rights of victims and upon the Court's ability to collect restitution.

#### **Prior Analysis of the Court**

- The City Court hired the firm of Arthur Andersen and Company to perform an operational analysis of its operations in 1989. The report recommended the creation of an office manager position and explained that this position was needed to "revise the existing organization hierarchy to provide clear reporting responsibilities and support job tasks."

#### **Administrative Responsibility**

- The Organizational Review Team surveyed municipal courts in Arizona to determine who is responsible for the day to day administration of those courts. Tempe is the only municipal court that the team surveyed that requires the Presiding Judge to act as the court administrator. The team spoke to the Presiding Judge, or the equivalent, in several jurisdictions and was told that it was their belief that they would not be able to effectively perform both the judicial function and the court administrator function. All of the Presiding Judges to whom the team spoke carried a full caseload on the court bench. They indicated to the team that it was their opinion that the Presiding Judge should carry a comparable bench caseload to other judges within their courts in order to properly preside over their courts.

#### **Presiding Judge and Bench Time**

- It appeared that the Presiding City Judge spent less than 25% of his time on the bench. This is not a criticism of the Presiding City Judge but rather an illustration of the fact that he is acting as both the presiding judge and the court administrator.

- The team analyzed the court/bench time of the judges in Tempe's Criminal Division and discovered that the scheduled court/bench time for the three court rooms averaged 76.8 hours per week. The average court/bench time for two sample four week periods, taking into account continuances and cancellations, was 63.6 hours.
- Presently, the Criminal Division's judicial staff includes the Presiding City Judge, one City Judge, and two part-time, temporary judges. The Presiding City Judge and the City Judge are both full-time, contracted positions. The part-time judges work 30 and 24 hours per week, respectively. The total hours that judges are available to perform judicial services for the City Court is 134 hours per week. Judges have other duties which must be accomplished off the bench including performing legal research, reviewing requests for continuances, etc. As a result, they cannot be expected to serve a full 40 hours per week on the bench. In the course of interviews with the presiding judges of other Valley municipalities, the team has been told that in order for a judge to be effective on the bench, he or she should spend, at minimum, 50% of his or her time on the bench.
- There is a critical need for a full-time, experienced Court Administrator in the Tempe City Court. The Court Administrator would be responsible for the day to day operations of the court and allow the Presiding City Judge to spend more of his time on the bench. If the Tempe City Court had a full-time court administrator, the Presiding City Judge would be able to spend approximately 50% of his time on the bench.

#### **Organizational Structure**

- The Fines Administration Division (FAD) is responsible for the fines collection function of the Criminal Division. All receipts received by FAD are deposited and entered into the computer system by Criminal Division clerical staff. After this is accomplished, the Criminal Division sends FAD a copy of the payment statement which shows the amount paid. The team found it unusual that a separate division, with two staff members, was created to collect the fines for the Criminal Division.
- Since the operations of both the Criminal Division and FAD are so interrelated, the City Court should consider consolidating the two divisions. If the fines administration function was merged into the Criminal Division, the division should be divided into two sections, Customer Services and Court Services. Chart 11 on page 3-35 illustrates this option for City Court reorganization if this were to occur.

- The team has also noted that, due to the fact that Fines Administration has only two full-time employees, there is no one to provide backup or support to the division. By merging the two divisions, this problem would be resolved. This action would also create a larger pool of workers available to provide customer services in the Criminal Division. See Issue 6.5 for additional information on FAD.

## RECOMMENDATIONS:

- Create a Court Administrator position and recruit an experienced court administrator to fill the position. This person should possess a graduate degree in judicial administration, public administration, business administration, or law, although an undergraduate degree in one of the above fields is acceptable. The person should have demonstrated experience (three years or more) as a court administrator, e.g. experience in the management of all aspects of court operations rather than in only one area. This will result in an approximate annual fiscal impact to the City of \$50,000.
- Eliminate one part-time (24 hours per week) judge position. By eliminating the part-time position, an approximate annual savings of \$40,000 will be realized. Please see Issue 4.2 for further discussion regarding the judicial staff.
- Evaluate the need for a pro tem judge to serve in the place of the full-time judges during those times when they are unable to preside in court. This will result in an approximate annual fiscal impact of \$15,600.
- Explore the possibility of merging the Criminal and Fines Administration Divisions.

The total annual expenditure to the City as a result of the above recommendations is \$25,600.



**ISSUE 4.2      Should a Divisional System be Implemented in the Criminal Division Court?**

**OBSERVATIONS:**

- There are two full-time judges who serve in the Criminal Division, the Presiding City Judge and a City Judge. In addition, there are two part-time judges who work 24 and 30 hours respectively. These part-time judges are categorized as unclassified temporary office employees in the City's personnel rolls. Specific court events such as arraignments, pre-trial conferences, trials, and sentencings are scheduled on the same day and time each week. Judges are assigned court time based on their individual work schedules and they do not follow a case from arraignment to disposition. Thus a defendant can appear before a different judge at arraignment, pre-trial conference, trial, and sentencing, although an effort is made to have a defendant sentenced by the same judge who presided at his or her trial.
- The current system of assigning judges to case events appears to have a negative effect upon the judicial system. In interviews with judges, court staff, and prosecutors from the City Attorney's Office, a number of problems were mentioned. Since judges do not follow cases from start to disposition, they are frequently unfamiliar with the history of a particular case. The Organizational Review Team has observed numerous court proceedings and found that it is not uncommon for a judge to spend five or more minutes familiarizing himself with a case. When this occurs, all court proceedings are stopped until he or she is ready to proceed. Judges may also inappropriately grant a continuance, which once again slows down the judicial process. Delays of this nature impact not only defendants but also the victims of crime.
- The Organizational Review Team concludes that many of these problems would be resolved through the institution of a division system in the Tempe City Court. The need for a division system was also identified in a Criminal Justice System retreat conducted in the Spring of 1993. A division system is one in which the same judge and prosecutor are assigned exclusively to one courtroom and in which the same judge hears the case from beginning to end.
- There are many advantages in implementing a division system. It improves communication between judges and prosecutors and gives judges a greater understanding of an individual case as they will handle the case from arraignment to disposition. From an administrative point of view, it improves the court's ability to determine if cases are being managed efficiently by individual judges. Under the current system, no one judge is accountable for any case and it is very difficult to identify problems that result in delays. A division system would prevent an attorney from "judge shopping" to select a judge that the attorney believes would look favorably upon his or her case. By having the same judge and prosecutor throughout all steps in a case, the defendant is assured that the judge is completely familiar with his or her case.

The division system is successfully being used in the Mesa, Scottsdale, and Phoenix city courts.

- The Presiding City Judge indicated that a division system would restrict the Court's current ability to reallocate judicial resources as needed. He did agree that a division system would improve his ability to determine if cases are being managed effectively. Tempe's Senior Prosecutor stated that a division system is greatly needed and that it would resolve many of the problems that exist today in the courts. While a division system would not solve all the problems of the criminal justice system, it would dramatically improve the operations of the Court.
- In order to implement a division system in the Tempe City Court, three full-time judges are needed. As stated in Issue 4.1, the Presiding City Judge presently does not spend a large amount of time on the bench. The addition of a Court Administrator, as recommended in Issue 4.1, would free the Presiding City Judge from the need to be involved in the day to day operations of the Court and thus would permit him to spend more time on the bench. By eliminating one of the current part-time judge positions and creating an additional full-time judge position, the Court would then have the ability to have three divisions.

#### **RECOMMENDATIONS:**

- Implement a division system in the Criminal Division of the Tempe City Court that would result in three divisions, each with its own judge and prosecutor.
- Eliminate the part-time (30 hours per week) judge position and create an additional full-time City Judge position. This will result in an annual fiscal impact of approximately \$20,800.

#### **TOPIC 5 POLICIES AND PRACTICES**

##### **ISSUE 5.1**

**What Is the City Court's Policy for the Granting of Continuances? Does this Policy Expedite or Inhibit the Judicial Process?**

#### **OBSERVATIONS:**

- Attorneys regularly file motions with the Tempe City Court to continue or postpone a case event to a later date. These case events include

arraignments, pre-trial conferences, trials (jury and non-jury), evidentiary hearings, and sentencings. Rule 16.1 b of the *Arizona Rules of Criminal Procedure* state that all motions shall be made no later than 20 days prior to the date set for trial. Practically, it is very difficult for attorneys to adhere to this rule and, as a result, local municipal courts have been more flexible in granting continuances.

- The Tempe City Court will grant a continuance up to, and even after, the time of appearance and is the only city court that will accept a motion to continue via telephone with follow-up by telefacsimile (FAX). This is the most lenient policy in the Phoenix metropolitan area for the granting of continuances. All other municipal courts require that the motion be submitted in writing. At the present time, the Glendale City Court is the only municipal court to have a formal continuance policy. This policy specifies that motions must be filed no later than ten days prior to the court appearance and the policy appears on all minute entries which are sent to attorneys and defendants. Need Policy
- The Tempe City Court's lenient policy causes problems for the judicial process, the prosecutors, and the police. When a case is continued, the new court date must be rescheduled within thirty days from the originally scheduled court date. This results in a "clogging" of the court docket. Continuances granted at the last minute also have an economic impact upon the court in that court reporters, interpreters, jurors, and police officers must be paid when court events have been canceled at the last minute.
- Prosecutors within the Tempe City Attorney's Office believe that part of the problem may lie with the fact that one particular defense attorney handles many of the DUI cases that are heard by the Tempe City Court. Conflicts in scheduling among his many court cases result in his regular filing of last-minute motions, to continue which are usually granted. It has also been mentioned that Tempe has only one public defender, thus causing scheduling problems and requests for continuations. Continuances also have an impact on the victims of crimes as they have the right under the *Arizona Rules of Criminal Procedure* to a speedy disposition of their case.
- The policy of Tempe's City Court is far too lenient and steps must be taken to limit the abuse of its judicial process. Although the team understands that there are valid reasons for continuing a case, it does believe that the current policy encourages abuse and that it is possible, in many instances, to file motions to continue in a more timely manner. A stricter policy will both improve the efficiency of the court and reduce costs for the city.

#### RECOMMENDATIONS:

- Immediately discontinue the Court's policy of accepting motions to continue by fax and require that all motions be filed in writing to the City Court.

- Implement a policy for motions to continue that requires that all such motions be filed no later than ten working days before a scheduled court appearance. The policy should also state in what instances a motion to continue will be granted if submitted after the ten day deadline.

**ISSUE 5.2            How are Office Policies and Procedures Communicated within the City Court?**

**OBSERVATIONS:**

- The Organizational Review Team found varying methods of communicating office policy and procedures within the three divisions of the City Court. None of these methods were entirely effective in communicating important policies and procedures to Court staff.
- There is a need for a formal written policy and procedures manual for all divisions of the Tempe City Court. The manual would also serve to educate new employees about the organization and operation of the Tempe City Court and about individual job tasks and responsibilities.

**RECOMMENDATIONS:**

- Develop a formal policy and procedures manual for the City Court that includes the following: organizational structure of the City Court, description of divisional responsibilities, and all court policies and detailed procedures for the various tasks performed in each division.
- Place a complete copy of the City Court policy and procedures manual in each division in a location accessible to all staff members. Each divisional supervisor will be responsible for maintaining and updating this manual and for verifying that all employees are notified of any change in policy and/or procedure.

**ISSUE 5.3            Is There a Need to Cross-train Court Services Clerks Within the Criminal Division?**

**OBSERVATIONS:**

- The 1989 study of the Tempe City Court by Arthur Anderson recommended that "cross-training is encouraged to make other individuals aware of co-workers' job tasks and provide back-up in case of absence." This recommendation was never implemented and the Organization Review Team has found that there continues to be a critical need for cross-training within the Criminal Division. Every regular, full-time, Court Services Clerk should

be able to perform all of the duties and responsibilities delineated in that position's job description.

#### **RECOMMENDATIONS:**

- Devise and implement a cross-training program for the Court Services Clerks in the Criminal Division so that they may assist wherever and whenever needed.
- Request that the Human Resources Department conduct a job analysis of the regular part-time Administrative Clerk II in the Criminal Division.

#### **ISSUE 5.4            How does the City Court Obtain Jurors? Is There a More Economical Method for Obtaining Jurors?**

#### **OBSERVATIONS:**

- The Tempe City Court annually contracts with the Jury Commission of the Arizona Superior Court to "provide the necessary jurors by lot drawn in the same manner, procedure, and methods as done by and for the Superior Court." Under this contract, the Jury Commission provides the Court with the names of two hundred prospective jurors per month. The cost for this service is \$1,000 per year, plus one dollar for every name the Commission attempts to qualify for jury service. The annual cost to the City Court is \$3,400.
- The City of Peoria obtains a list at no charge from the Jury Commission of all persons in Peoria that have driver's licenses and then qualifies the individuals themselves. Peoria indicated the total time to qualify each jury was four hours. The team estimates that Tempe's City Court staff would spend no more than two hours per week in qualifying jurors by the same method.
- The Organizational Review Team has discussed this issue with the City Court staff. They indicated that it was their belief that they could qualify jurors themselves without negatively affecting their productivity and efficiency.

#### **RECOMMENDATIONS:**

- Terminate the contract with the Jury Commission of the Arizona Superior Court for the provision of qualified jurors.
- Obtain the vehicle registration list from the Jury Commission of the Arizona Superior Court and have City Court staff qualify potential jurors. This will result in an annual savings of approximately \$3,400.

**ISSUE 5.5**

**Should the Maricopa County Jail Costs Incurred by the City be Included in the City Court Budget?**

**OBSERVATIONS:**

- The maximum amount of time that the Police Department may hold a defendant in its holding facility is 48 hours. If the defendant must spend additional time in jail, and this 48 hour period has expired, the defendant must be sent to Maricopa County's jail facility.
- Maricopa County charges the City \$38.00 per day to hold these prisoners. The expenditures incurred by the City for the jail services provided by Maricopa County are included in the City Court budget. The City paid the County \$215,597 in FY 1991/92 for jail services. During FY 1992-93, the County was paid \$113,527.
- It was the judicial staff's concern that a judge's decisions as to whether or not to incarcerate a defendant might be impacted by the current budget structure which gives the Court the responsibility for monitoring and controlling jail costs.
- The Arizona Supreme Court does not support including jail costs within a municipal court's budget. The Arizona Supreme Court acknowledges "the necessity of maintaining magistrate courts as fair, independent, and impartial tribunals and the importance of preserving the public's perception of these courts as impartial and unbiased."
- The team surveyed other municipalities and found it unusual for Maricopa County jail costs to be in the municipal court budgets. The majority of the cities surveyed allocated these costs to their Police Department budgets.
- Moving jail expenditures to the Police Department budget with the Tempe's Police Chief. He agreed that the Court budget may not be the best place for these costs but contended that the same concerns about having the budget within the City Court also pertain to the Police Department. It was his belief that some consideration should be given to moving the Maricopa County jail budget to a department that was not directly involved in the criminal justice process.
- The team also discussed this issue with the Management Services Director to get his opinion as to moving these costs to the Management Services Department's Financial Services Division's budget. He indicated his willingness to participate in discussions regarding the fiscal impact upon the City of criminal justice system actions. He also stated that it was his preference to have one person responsible for monitoring expenditures, as is now the case with the jail budget.

## RECOMMENDATIONS:

- Move the budget for Maricopa County jail costs to a cost center not directly involved in the criminal justice system, e.g. non-departmental, Management Services, or City Manager.
- Within the context of the criminal justice system communications process, the City Judge, the City Attorney, the Police Chief, and the Management Services Director should meet on a quarterly basis to discuss a comprehensive strategy to deal with these Maricopa County jail costs.

### TOPIC 6 OPERATIONAL POLICIES AND PROCEDURES

#### ISSUE 6.1      Is the Court Properly Administering its Contracts for Indigent Defense Services? Is There a Need for More than One Public Defender?

#### OBSERVATIONS:

- The Tempe City Court contracts with one attorney to provide indigent defense, or public defender, services. At the present time, the public defender is paid \$76,450 per year. This contract has been renewed on an annual basis for more than ten years and specifies that the public defender's compensation be "subject to negotiation based on demonstrated change of circumstance, including, but not limited to an increase in the current indigent case assignment". Although the contract specifies that the public defender must be able to "provide case logs, final disposition records, time sheets, and written reports as required by the Presiding Judge", the public defender has never provided this information to the City as the Presiding Judge has never requested it.
- In 1989 the Internal Audit Division of the Management Services Department conducted an audit of the professional services contracts administered by the City Court and published its results in an internal audit report. A copy of this report is included in the Appendix of this report. The report found that "The Court's accountability for indigent defense cases referred to (the public defender) is not satisfactory . . ." It does not appear that the City Court has addressed this issue and it is the team's conclusion that these recommendations are still valid. The public defender's compensation has increased by \$7,634 since FY 1988/89 but the Organization Review Team was unable to determine if this increase was justified as caseload figures were not verified.

- This lack of case information make it impossible to determine the cost effectiveness of Tempe's indigent defense services contract. It also makes it difficult to determine if indigent defendants are receiving adequate representation from the public defender. City prosecutors indicated that having only one public defender causes problems in the Court. They stated that the current public defender has a private practice in addition to his indigent cases. It was their perception that this resulted in the public defender filing frequent motions to continue which delayed disposition of cases.
- The Organizational Review Team reviewed the contracts used by other municipalities for indigent defense services. The Chandler City Court has two public defenders on contract. Their contract limits them to 200 cases per year and they are paid at an hourly rate of \$30.00. In FY 1992/93, Chandler expended \$61,572 for indigent defense services. The Mesa City Court has five public defenders who are limited to 275 cases per year and who are paid \$38,789 annually. The Scottsdale City Court contracts with four public defenders who are paid \$175 per case and who are limited to 300 cases per year. Last year, the Scottsdale City Court spent \$43,425 on indigent defense services. Glendale contracts with a law firm to provide its indigent defense services. This firm is paid by case event. For example, they are paid \$25 for each non-jury trial preparation, \$50 for dismissals, etc. During FY 1992/93, Glendale expended \$37,576 for indigent defense. *P.D. comparison*
- The team could not determine if Tempe is paying a reasonable amount for indigent defense services because there are no valid caseload indicators for the public defender. The previously mentioned report prepared by the Internal Audit Division of the Management Services Department found that in 1989 Tempe's per case cost was higher than that of the cities of Mesa, Chandler, Scottsdale, and Phoenix. At that time, Tempe's per case cost was \$150.92 while the average cost per case for the above mentioned cities was \$117.77, a difference of \$33.15. Internal Audit estimated that the City could realize a savings of approximately \$15,000 annually by changing its method of acquiring indigent services. The report recommended that the "Court should either invite offers at a fixed amount of compensation or bid out the indigent defense contract."
- The City Court's current practice of obtaining indigent defense services needs to be changed by instituting a request for proposal process to insure that the City is obtaining the highest quality and most cost-effective indigent defense services. The Court should also contract with more than one attorney to provide indigent services, thus providing more flexibility than currently exists in assigning public defenders to indigent cases.

#### RECOMMENDATIONS:

- Implement a request for proposal process for indigent defense services and award contracts to more than one respondent.



- Implement procedures to monitor the caseload of public defenders who have been awarded contracts with the Court.
- Require indigent defense services contractors to provide a quarterly written report to the City detailing assigned caseload.

**ISSUE 6.2      What is the Arrangement of the Court Files in the Criminal Division? Why is it so Difficult to Find Certain Files?**

**OBSERVATIONS:**

- The team has observed that during the time when a case is active, files are not returned to the active file storage area. There is no office policy for the handling of active files. The Arthur Andersen report on the operations of the City Court addressed this same issue in 1989. The Organizational Review Team has found these recommendations to still be valid.

**RECOMMENDATIONS:**

- Establish a formal filing system with one individual designated as a Files Librarian. This person would handle the checking in and out of files.
- Implement a clean desk policy in which all court files would be returned to the files librarian at the end of each day.
- Implement the use of "file out" cards. These cards should be placed in the location of any file which is removed from the files storage area and should indicate who has the file in their possession.

**ISSUE 6.3      Why are a Large Number of Arraignments Scheduled on Fridays? Is the Police Department Aware that the Arraignment Schedule is Typically Heavier on Fridays?**

**OBSERVATIONS:**

- When an individual receives a citation from a Tempe Police Officer, the officer indicates on the citation when the person needs to appear for his or her arraignment. The Criminal Division's clerical staff told the team that a large number of the arraignments scheduled by police officers frequently fell on Fridays. The team observed numerous arraignments and it appeared that more arraignments were scheduled on Friday than any other day. The average number of arraignments scheduled for Fridays was 50% greater than any other day during the week.

- The Police Department's General Orders direct officers to advise violators that they may appear for arraignment in the City Court during normal business hours starting five days from the date of the citation. By law, an arraignment must be scheduled ten days from the day of the citation. It generally takes a full three working days for the citation to reach the Court from the Police Department so a police officer cannot schedule an arraignment for at least four days after the date of the citation.
- This issue could be resolved through discussions between City Court and Police Department staff. By requesting that some police officers schedule arraignments for the following Monday instead of on Friday, the problem may be solved.

#### **RECOMMENDATION:**

- Address the issue of arraignment scheduling through the Police-Court-Prosecutor task force established as a result of the Criminal Justice Interdepartmental retreat.

#### **ISSUE 6.4      Does the City Court have Adequate Cash Handling Procedures?**

#### **OBSERVATIONS:**

- The Management Services Department's Internal Audit Section performed an audit of the cash handling procedures of the City Court in 1990. During this audit, it was discovered that the City Court lacked adequate controls over the cash which it handled on a daily basis. Internal Audit's review of the City Court's cash handling procedures was conducted prior to the implementation of the Judicial Software System. As a result, the team was not able to verify all issues that have been addressed through automation.
- The team was alerted by the Internal Audit study to the fact that some problems had existed in this area. Through observation and inquiry, the team has determined that the inadequacies mentioned in the Internal Audit report still exist. In addition, the team discovered the following deficiencies:
  - (a) City Court employees have the ability to backdate payments. This capability could permit the misappropriation of funds.
  - (b) The team also found that checks accepted by the City Court are not restrictively endorsed at the time of receipt. This control weakness could also permit the misappropriation of funds.

The Arizona Supreme Court has published minimum accounting standards. These standards should be used to assist the court in establishing sound cash handling procedures.

## **RECOMMENDATIONS:**

- Limit the number of persons who open the mail and who have access to the cash drawer to one person. If more than one person must accept payments, the City Court should consider purchasing another cash register.
- Provide written cash handling procedures to all applicable employees.
- All payments that need to be backdated should be approved by the Court Services Supervisor.
- Court staff should restrictively endorse checks when received.
- Request an audit of cash handling procedures by the Internal Audit section after the full implementation of the Judicial Software System.
- Implement the minimum accounting standards established by the Arizona Supreme Court.

### **ISSUE 6.5**

**What is the Role of the Fines Administration Division (FAD)? Is the Court Fines Administrator's Work Schedule the Most Efficient and is it Consistent with the Goals of the Fines Administration Division?**

## **OBSERVATIONS:**

- Nearly all courts have the reputation of being notoriously poor at collecting the fines which they assess. In recognition of this problem, the Arizona Supreme Court created the Judicial Collection Enhancement Fund (JCEF) to deal with the large amount of court fines that have not been paid. The Tempe City Court was given a grant in 1990 from JCEF to improve its ability to collect fines. This grant resulted in the creation of the Fines Administration Division, the purpose of which was to collect the fines which the City Court imposed.
- Defendants who indicate that they are unable to pay an assessed fine immediately are sent to the Fines Administration Division. The defendant is asked to complete an application which is used to determine the defendant's ability to pay the fine. The Senior Administrative Court Clerk creates a file that includes the court order and a credit report. After the applicant completes the application and the file is prepared, the Fines Administrator interviews the defendant to determine his or her ability to pay the fine. The goal of the Fines Administration Division is to have the defendant pay the fine on the day that it is imposed, as the chances of collecting a fine after that time decreases dramatically.

- The Fines Administrator works from home on Wednesdays in order to make collection calls to defendants with outstanding fines. There is no formal record of collection calls made by the Fines Administrator nor has the Presiding City Judge requested that one be provided to him.
- The stated goal of the City Court, i.e. to have fines paid on the day which they are assessed, is in conflict with the work schedule of the Fines Administrator. Under the current work schedule, the Fines Administrator is out of the office one day per week and thus not able to interview the defendants. The Senior Administrative Clerk who also works in Fines Administration is not permitted to conduct interviews. There is no reason why the Senior Administrative Clerk could not perform this duty in the absence of the Fines Administrator.
- The Fines Administration Division is supposed to be the in-house collection agency for the City Court, yet there is no automated means to determine who owes fines and their amounts. There is no manual or automated system to summarize the accounts outstanding. Although this should change when the computer system is fully implemented, there appears to be no guarantee that this will happen.
- Fines Administration administers the collection function of the Criminal Division. All receipts received by FAD are deposited and entered into the computer system by Criminal Division clerical staff. The Criminal Division then sends FAD a copy of the payment statement which shows the amount paid. The team found it unusual that a separate division, with two staff members, was created to essentially collect the fines for the Criminal Division. The Criminal Division and FAD operations are so interrelated that consideration should be given to consolidating the two divisions. This issue is addressed in further detail in Issue 4.1 of this report.

## RECOMMENDATIONS:

- All fines administration functions should be performed in the office. The team finds no reason why collection calls cannot be made from the office.
- Train the Senior Administrative Clerk to both interview defendants in order to determine their ability to pay and devise payment plans.
- The fines administration function should be operational during all business hours.
- Implement a manual system for the fines administration function to track outstanding fines by using cards and posting the payments to these cards. This system would allow staff to identify delinquent defendants and would provide information as to who to contact in the event someone becomes delinquent in their payments.

**ISSUE 6.6**

**Is the Court Issuing Warrants? How Does this Affect the Criminal Justice System? Has the Court Considered Issuing Warrants Manually?**

**OBSERVATIONS:**

- Warrants had not been issued since the Judicial Software System was implemented in April 1993. The City Court indicated that this was due to the fact that the warrants portion of the new computer system had not been completed. As of August 3, 1993, the Judicial Software package was completed to a point where the warrant information could be entered into the system. The system still could not print warrants and the City Court began typing the warrants manually and sending the notices to the Police Department.
- When information concerning warrants was converted from the old computer system to the new Judicial Software System, some of the warrants were given their own case number. As a result, the Court staff may not know that a warrant is outstanding or if it has been recalled. This creates problems for the City Court because Court staff may not be able to properly respond to law enforcement agencies' requests concerning the status of a warrant issued by the City Court. The team also found that the Court's delay in issuing warrants had a negative impact upon the victim's rights program by delaying restitution to victims.

**RECOMMENDATION:**

- Issue warrants expeditiously.

**TOPIC 7  
COMMUNICATION  
AND  
COOPERATION**

**ISSUE 7.1**

**Is There a Need for a Formalized Means of Communication between the City Court, the City Attorney, and the Police Department?**

**OBSERVATIONS:**

- The Police Department, the City Court, and the City Attorney's Office form the nucleus of Tempe's criminal justice system and an action taken by any one of these three bodies impacts the operations and activities of another. For example. Over the years a number of problems and/or misunderstandings have occurred whenever one department took an action without considering its impact upon the others and/or did not communicate it to them.
- The City Attorney proposed holding a special criminal justice interdepartmental staff retreat. The purpose of this retreat was to identify incidences of excellence, incidences of difficulty, peak workload times, and, most importantly, critical problem areas and possible solutions to them. The retreat was held on April 20, 1993. The participants agreed that their common goals were service and responsiveness to the community.
- Retreat participants identified the following areas of difficulty. ere listed as "systemic areas of difficulty", i.e. problems with the organization or the "system": a lack of hard information across department lines; heavy caseloads and call-loads; computers; constantly reinventing the wheel; officers having to wait for long periods before trial; and the lack of a division system within the City Court.
- One of the key outcomes of the retreat was a joint resolve to share ownership and responsibility for resolving mutual issues. The group agreed that there was a need for joint planning (including mission and goal setting), resolution of conflicts in a timely manner, allocation of resources in a manner consistent with the needs of justice, and the establishment of criteria to measure success. The most important product of this retreat was an action plan, a copy of which is included in the Appendix of this report. A responsible person was assigned to each issue and an estimated timetable was established. The plan encouraged communication and cooperation between line employees of all three departments, as well as on the department head level. The Organizational Review Team believes that the retreat improved communication between the key players in Tempe's criminal justice system and identified problems that could be solved or, at the very least, kept to a minimum by addressing them together instead of separately.

- The criminal justice communication process should be formalized so that the participants are accountable to City Council and City management. This would ensure that all items included in the current action plan are accomplished in a timely manner. Even more importantly, this process should continue on an ongoing basis. The complexity of the criminal justice system and the fact that federal, state, and local laws are continuously changing, mandates the need for a formal vehicle for communication. The current informal structure, which relies strictly upon the good will of the participants, presents problems when some participants are not willing and/or able to accomplish the action items for which they have been given responsibility, particularly when one considers that two of the department heads report to City Council. For example, the action items for which the City Court was assigned responsibility have not been accomplished.
- Some measure of accountability must be injected into this process. The operations of the criminal justice system is a topic of high community concern and visibility and has a profound effect upon the quality of life in Tempe. Formalizing this process will ensure that the criminal justice communication process continues and that all parties involved execute their assigned duties and responsibilities.

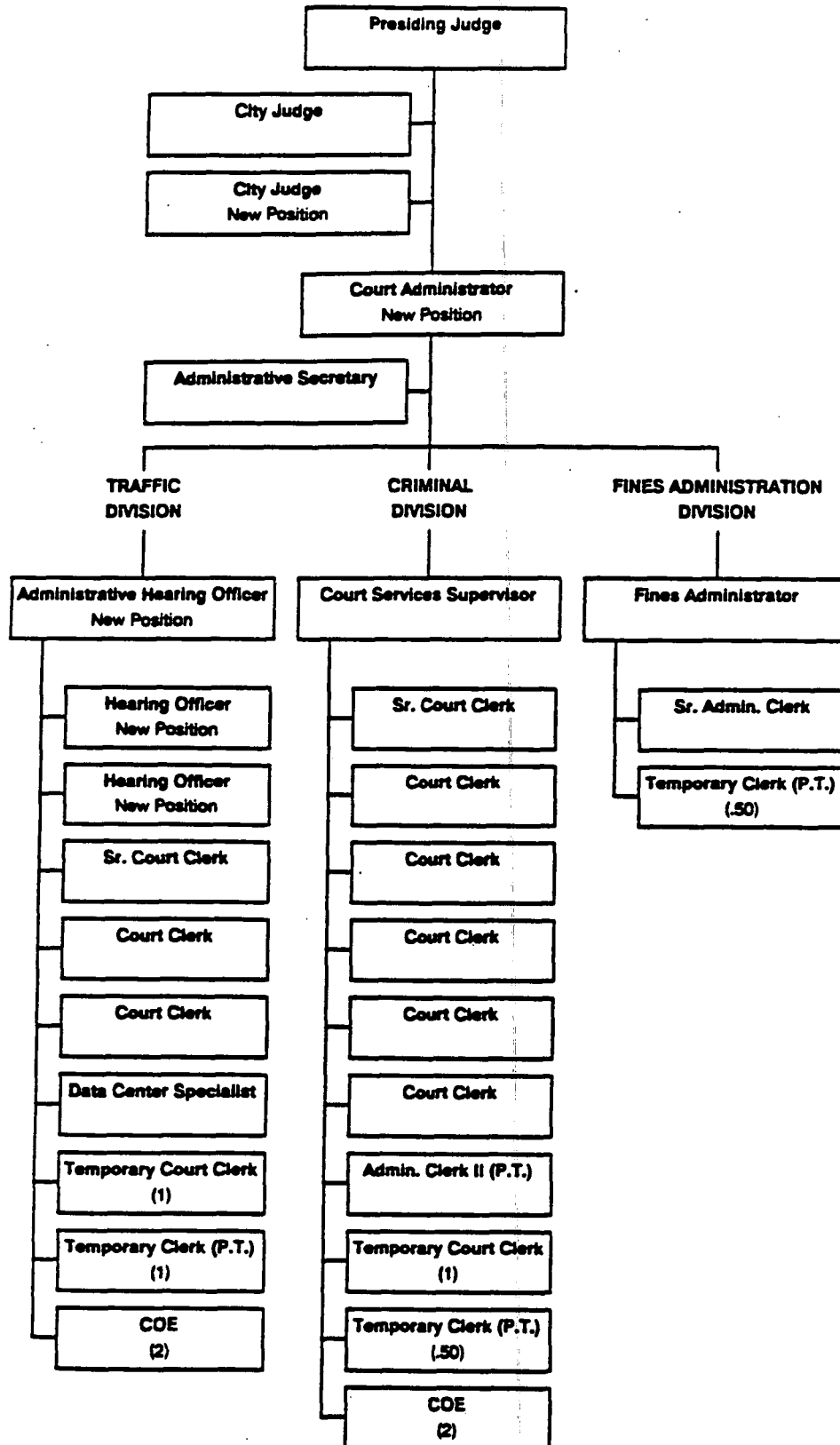
#### **RECOMMENDATION:**

- Create an executive committee comprised of the City Attorney, the Police Chief, and the Presiding City Judge. This group should meet at least monthly to discuss progress on any existing action items and provide a monthly written report to both the City Manager and the City Council on its progress.

#### **TOPIC 8 SUMMARY OF RECOMMENDATIONS**

There are many recommendations included in this report that affect the organizational structure of the City Court. The following chart illustrates the City Court's organizational structure if all recommendations are implemented.

City Court  
PROPOSED CITY COURT ORGANIZATION CHART  
Chart 12





# APPENDIX E

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## PERCENT OF CIVIL TRAFFIC DEFAULT JUDGMENTS

**PERCENT OF CIVIL TRAFFIC  
DEFAULT JUDGMENTS**

COURT	FY91	FY92	FY93
Chandler Municipal	6.3	3.4	7.9
Glendale Municipal	28.1	15.9	14.9
Paradise Valley Municipal	5.5	1.9	10.3
Phoenix Municipal	22.0	21.7	21.3
Scottsdale Municipal	16.2	16.5	18.4
Tempe Municipal	14.6	10.8	10.9
Tucson Municipal	22.8	24.0	20.7

# APPENDIX F

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TEMPE MUNICIPAL COURT  
BOND ENVELOPE

# **TEMPE MUNICIPAL COURT BOND/FINE SCHEDULE**

Listed below are violation codes (not complaint numbers) with fine amounts as shown. Asterisk (\*) means code is eligible for the Defensive Driving Program.  
IF ANY VIOLATION CODE WITH WHICH YOU ARE CHARGED DOES NOT APPEAR BELOW, THEN **YOU MUST APPEAR IN COURT ON YOUR APPEARANCE DATE.**  
ALL FINES INCLUDE A MANDATORY STATE SURCHARGE OF 57%.  
SURCHARGES ARE A TAX IMPOSED AND RETAINED BY THE STATE OF ARIZONA. THE CITY OF TEMPE IS REQUIRED BY LAW TO COLLECT THESE SURCHARGES.

<u>Violation code</u>	<u>Amount</u>	<u>DEFAULT AMOUNT</u>
A.R.S.		
28-302 .....	\$85.00	\$127.00
28-305 .....	\$85.00	\$127.00
28-309 .....	\$85.00	\$127.00
28-314 & 28-315 .....	\$85.00	\$127.00
28-326C .....	\$80.00	\$142.00
* A.R.S. 28-326C - NO PROOF OF REGISTRATION WITH VALID PROOF OF CURRENT REGISTRATION. FINE REDUCED TO \$80.00 OR DISMISSED WITH PROOF OF REGISTRATION VALID ON DATE AND TIME OF VIOLATION.		
28-411 .....	\$85.00	\$127.00
28-414 & 28-415 .....	\$85.00	\$127.00
28-423 .....	\$85.00	\$127.00
* A.R.S. 28-423 - NO DRIVER'S LICENSE IN POSSESSION WITH PROOF OF DRIVER'S LICENSE VALID ON DATE AND TIME OF INCIDENT CHARGE WILL BE DISMISSED.		
28-426 & 28-427 .....	\$85.00	\$127.00
25-501 .....	\$85.00	\$127.00
28-644 & 28-645 .....	\$95.00	\$157.00
28-646 .....	\$85.00	\$127.00
28-647 .....	\$95.00	\$157.00
28-651 .....	\$95.00	\$157.00
28-701A, 28-702.1, 28-702.04		
28-704 THRU 28-706 .....		
0-20 mph over speed limit .....	\$95.00	\$157.00
20+ mph over speed limit .....	\$140.00	\$202.00
28-721 THRU 28-792 .....	\$95.00	\$157.00
28-793 .....	\$85.00	\$127.00
28-795 & 28-796 .....	\$85.00	\$127.00
28-797 .....	\$95.00	\$157.00
28-813 THRU 28-817 .....	\$95.00	\$157.00
28-851 THRU 28-856 .....	\$95.00	\$157.00
28-858 .....	\$95.00	\$157.00
28-891 THRU 28-897 .....	\$95.00	\$157.00
28-903 THRU 28-904 .....	\$95.00	\$157.00
28-905 .....	\$85.00	\$127.00
28-906 .....	\$85.00	\$127.00
28-907 .....	\$85.00	\$127.00
* A.R.S. 28-907 - CHILD PASSENGER RESTRAINT MAIL RECEIPT PROVING PURCHASE OF CHILD PASSENGER RESTRAINT SYSTEM AND FINE REDUCED TO \$0.00.		
28-909 .....	\$25.00	\$87.00
28-921 THRU 28-985 .....	\$85.00	\$127.00
28-981 THRU 28-984 .....	\$85.00	\$127.00
28-1003 THRU 28-1006 .....	\$85.00	\$127.00
28-1562 .....	\$85.00	\$127.00
T.C.C.		
7-51 .....	\$85.00	\$127.00
7-52 THRU 7-55 .....	\$85.00	\$127.00
19-18 .....	\$85.00	\$127.00
19-33 .....	\$85.00	\$127.00
19-42 & 19-43 .....	\$85.00	\$127.00
19-44 .....	\$85.00	\$127.00
19-51 .....	\$85.00	\$127.00
19-52 .....	\$85.00	\$127.00
19-52 (2nd OR MORE OFFENSES) .....	\$95.00	\$157.00
19-62 .....	\$85.00	\$127.00
19-151 .....	\$25.00	\$87.00
19-165 THRU 19-167 .....	\$85.00	\$127.00

\*NOTE: If Fine/Bail is not paid by the appearance date, a \$50.00 default cost is assessed per charge (violation) in addition to the statutory \$12.00 time payment fee.

**TEMPE CITY COURT**  
140 E. 5th Street • Suite 150  
Tempe, AZ 85281  
350-8271

## **DEFENSIVE DRIVING PROGRAM**

The Tempe City Court provides Defensive Driving classes for persons who receive tickets for certain minor traffic violations.

### **ADVANTAGES:**

1. You will not need to go to court.
2. Your charge will be dismissed.
3. There will be no fine.
4. You will receive no points on your license.

### **AM I ELIGIBLE?**

You may be eligible for the program if:

1. You have not previously attended within the last two years (violation date to violation date) a Defensive Driving (charge dismissal) class as a result of a prior charge in the State of Arizona.
2. You have a valid driver's license.
3. Your charge did not result from an accident involving a death or a life-threatening injury.
4. Your charge has not already been set for hearing.

### **IF YOU ARE ELIGIBLE AND WISH TO ATTEND, DO THE FOLLOWING:**

1. Call one of the following schools within 5 days of receiving the citation:

**Arizona Defensive Driving School at  
569-2332 or 1-800-279-2477**

**The National Safety Council,  
Arizona Chapter at 263-9565 or  
1-800-293-0112**

2. Register for a traffic safety class.
3. Bring your driver's license, ticket, and a \$85.00 money order with you on the date of the class.  
**CASH AND PERSONAL CHECKS ARE NOT ACCEPTED!**
4. Attend and satisfactorily complete the class 5 days before the court appearance date that is listed on your complaint.
5. You must bring your copy of the ticket or complaint to class. If you have lost it, you must return to court and obtain a new copy before the day of the class.

## **IMPORTANT - PLEASE READ**



**THIS ENVELOPE IS PROVIDED FOR YOUR CONVENIENCE**

To pay your fine by mail, insert a money order or cash, refer to the insert inside this envelope.

For payment by mail, insert a money order, Cashier's Check or Personal Check (only with Bank Guarantee Card). **DO NOT SEND CASH.** Make check/money orders payable to City of Tampa.

Please include complete number(s) on check/money order.

You may be eligible to attend the Defensive Driving Program. See the enclosed information for the Defensive Driving Program.

Traffic Court is open from 9:00 a.m. to 5:00 p.m., Monday through Friday. Additional information can be obtained by calling (800) 350-8271.

No court date automatically will be granted by phone.

**FAILURE TO PAY, APPEAR, OR ATTEND SCHOOL IF ELIGIBLE, WILL RESULT IN ADDITIONAL MONETARY PENALTIES AND/OR DRIVERS LICENSE SUSPENSION AND/OR WARRANT.**

# APPENDIX G

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MOTOR VEHICLE DRIVERS LICENSE ACT  
A.R.S. § 28-446

28-442. The state is not required to prove actual receipt of the notice or actual knowledge of the revocation.

28-446. Authority of department to suspend or revoke license or require attendance at driver improvement school

A. The department may suspend or revoke the license of a driver or require any licensee to attend and successfully complete approved training and educational sessions designed to improve the safety and habits of drivers, upon a showing by the department's records or other sufficient evidence that the licensee:

1. Has committed an offense for which mandatory revocation of the license is required upon conviction.

2. Has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage.

3. Has been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with such a frequency so as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

4. Has been convicted of reckless driving as provided in section 28-693 or is an habitually reckless or negligent driver of a motor vehicle.

5. Is incompetent to drive a motor vehicle.

6. Has committed or permitted any act involving an unlawful or fraudulent use of the license.

7. Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation.

8. Has been convicted of a violation of section 28-692.

B. Upon suspending or revoking the license of a person or requiring any licensee to attend and successfully complete approved training and educational sessions designed to improve the safety and habits of drivers, as authorized in subsection A of this section, the department shall forthwith notify the licensee in writing. Compliance with the mailing provisions of section 28-453 constitutes notice of the suspension or revocation for the purposes of prosecution under section 28-473 or 28-697. The state is not required to prove actual receipt of the notice or actual knowledge of the suspension or revocation. Upon the person's request the department shall afford him an opportunity for a hearing as early as practical within not to exceed thirty days after receipt of the request in the county wherein the licensee resides unless the law enforcement agency issuing the citation or affidavit which authorizes the suspension or revocation requests at the time of issuance of the citation or filing of the affidavit that the hearing be held in the county where the violation allegedly occurred. Upon the hearing the department or its duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. At the hearing the department shall either rescind its order of suspension or its order requiring the licensee to attend and successfully complete approved training and educational sessions or, good cause appearing therefor, may uphold or extend the order, revoke the license or make any order within its discretionary power under this section which is in the interest of public safety. If any licensee receives notice requiring him to attend and successfully complete approved training and educational sessions and the department receives information that this order is not being or has not been com-

plied with, the department may amend the order to one of suspension or revocation.

C. Upon notification that a person has failed to appear as directed for a scheduled court appearance after service of the complaint alleging a violation of any of the provisions of this title, the department shall suspend that person's driver's license or nonresident operating privilege until the person appears, the fine or civil sanction is paid or a bond is forfeited.

D. If the department exercises the discretion granted under subsections A and B of this section and issues an order requiring any licensee to attend and successfully complete approved training and educational sessions designed to improve the safety and habits of drivers, the department shall indicate on the computer record that the person's driving privilege is restricted for the purpose of completing the required training and educational sessions. Upon successful completion of the training and educational sessions, the department shall reinstate the driving privileges of the licensee granted under his permanent license with any reasonable restrictions placed thereon which are in the interest of public safety.

E. Governmental agencies, corporations or other individuals that conduct such training sessions approved by the department shall be entitled to collect a fee reasonable and commensurate for this training, but in no event shall this fee exceed twenty-five dollars.

28-447. Department may require reexamination

The department having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed may upon written notice of at least five days to the licensee require him to submit to an examination. Upon the conclusion of the examination the department shall take action as may be appropriate and may suspend or revoke the license of such person or permit him to retain the license, or may issue a license subject to restrictions as permitted under § 28-424. Refusal or neglect of the licensee to submit to the examination shall be ground for suspension or revocation of his license.

28-448. Period of suspension, revocation or disqualification; unlicensed drivers

A. The department shall not suspend, revoke or disqualify a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one year from the date of a conviction or judgment, if any, against a person for which this chapter makes the revocation, suspension or disqualification mandatory or from the date the notice was sent pursuant to section 28-453 if no conviction was involved, except as permitted under subsection C of this section and sections 28-454, 28-456, 28-473 and 28-697.

B. A person whose license or privilege to drive a motor vehicle on the public highways has been revoked may apply for a new license as provided by law after the cause of the revocation is removed or after expiration of the revocation period prescribed by law, but the department shall not then issue a new license unless it is satisfied after investigation of the character, habits and driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. If the revocation is related to alcohol or other drugs, the person shall provide the department with a current evaluation from a certified substance abuse counselor indicating that, in the opinion of the counselor, the condition



# APPENDIX H

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AOC LETTER FROM DEFENSIVE DRIVING PROGRAM  
REGARDING  
MULTIPLE ATTENDANCES WITHIN 24 MONTHS



# Supreme Court

Stanley G. Feldman  
Chief Justice

STATE OF ARIZONA  
ADMINISTRATIVE OFFICE OF THE COURTS

David K. Byers  
Administrative Director  
of the Courts

November 1, 1993

TO: All Limited Jurisdiction and Juvenile Courts

FROM: Kate Bibber, Program Manager  
Defensive Driving Program

SUBJ: Multiple Attendances Within 24 Months

DATE: November 1, 1993

It was brought to our attention that several courts are regularly issuing court orders to allow defendants to attend defensive driving class more than one time within a 24 month period for dismissal of minor moving traffic violations. Our legal staff has given us the opinion that the defensive driving statute, A.R.S. §28-492, is clear that the diversion option for dismissal of a traffic violation is to be offered only once in 24 months and any other application of defensive driving is contrary to the intent of the statute. This statute also delegates supervision of the use of defensive driving schools by the courts in the state to the Supreme Court.

We recognize that a judge may order a defendant to attend defensive driving even if that defendant has attended within the previous 24 months for diversion, but the subsequent attendance should be treated as a condition of sentence rather than as diversion, and the charge should not be dismissed. Hopefully, this memo will clear up any misunderstandings, and courts will take steps to assure that their procedures comply with the intent of the legislation.

# APPENDIX I

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## STATISTICS

**CASES FILED  
TEMPE MUNICIPAL COURT**

<u>TYPE</u>	<u>FY91</u>	<u>FY92</u>	<u>FY93</u>	<u>% 91/93</u>	<u>% 92/93</u>
DUI	2,375	2,892	2,371		-18.0
SERIOUS TRAFFIC	251	238	190	-24.3	-20.1
OTHER TRAFFIC	3,063	4,034	2,584	-15.6	-36.0
<b>TOTAL CRIMINAL TRAFFIC</b>	<b>5,689</b>	<b>7,164</b>	<b>5,145</b>		<b>-28.2</b>
<b>TOTAL CIVIL TRAFFIC</b>	<b>33,711</b>	<b>31,592</b>	<b>29,049</b>	<b>-13.2</b>	<b>-8.0</b>
MISDEMEANORS	9,188	9,649	9,030		-6.4
MID FTA	2,014	2,282	2,388	+ 18.5	
TRAFFIC FTA	929	1,370	986		-18.0
<b>TOTAL MISDEMEANORS</b>	<b>12,131</b>	<b>13,301</b>	<b>12,404</b>		<b>-6.7</b>
<b>TOTAL FELONIES</b>	<b>0</b>	<b>0</b>	<b>0</b>		
SMALL CLAIMS	N/A	N/A	N/A		
CIVIL SUITS	N/A	N/A	N/A		
FORCIBLE DETAINER	N/A	N/A	N/A		
<b>TOTAL CIVIL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>		
<b>TOTAL ALL CASES</b>	<b>51,531</b>	<b>52,057</b>	<b>46,598</b>	<b>-9.6</b>	<b>-10.5</b>

**CASES DISPOSED  
TEMPE MUNICIPAL COURT**

<u>TYPE</u>	<u>FY91</u>	<u>FY92</u>	<u>FY93</u>	<u>% 91/93</u>	<u>% 92/93</u>
DUI	1,932	2,808	1,909		
SERIOUS TRAFFIC	438	429	255		
OTHER TRAFFIC	3,515	3,528	2,492		
<b>TOTAL CRIMINAL TRAFFIC</b>	<b>5,885</b>	<b>6,765</b>	<b>4,656</b>		
<b>TOTAL CIVIL TRAFFIC</b>	<b>49,130</b>	<b>39,471</b>	<b>34,893</b>	<b>-29.0</b>	<b>-11.6</b>
MISDEMEANORS	9,091	8,777	8,863		
MID FTA	1,859	2,109	2,231		
TRAFFIC FTA	968	1,148	974		
<b>TOTAL MISDEMEANORS</b>	<b>11,918</b>	<b>12,034</b>	<b>12,068</b>		
<b>TOTAL FELONIES</b>	<b>0</b>	<b>0</b>	<b>0</b>		
SMALL CLAIMS	N/A	N/A	N/A		
CIVIL SUITS	N/A	N/A	N/A		
FORCIBLE DETAINER	N/A	N/A	N/A		
<b>TOTAL CIVIL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>		
<b>TOTAL ALL CASES</b>	<b>66,933</b>	<b>58,270</b>	<b>51,617</b>	<b>-22.1</b>	<b>-11.4</b>

**PENDING CASES  
TEMPE MUNICIPAL COURT**

<b><u>TYPE</u></b>	<b><u>FY91</u></b>	<b><u>FY92</u></b>	<b><u>FY93</u></b>	<b><u>% 91/93</u></b>	<b><u>% 92/93</u></b>
DUI	1,631	1,574	2,603	+ 59.6	+ 65.3
SERIOUS TRAFFIC	285	224	342	+ 20.0	+ 52.7
OTHER TRAFFIC	3,376	3,652	2,085	-38.2	-42.1
<b>TOTAL CRIMINAL TRAFFIC</b>	<b>5,292</b>	<b>5,450</b>	<b>5,030</b>		
<b>TOTAL CIVIL TRAFFIC</b>	<b>6,326</b>	<b>6,824</b>	<b>13,038</b>	<b>+ 106.0</b>	<b>+ 91.0</b>
MISDEMEANORS	9,596	9,528	13,027	+ 35.7	+ 36.7
MID FTA	4,612	4,197	4,888		
TRAFFIC FTA	2,159	2,079	2,180		
<b>TOTAL MISDEMEANORS</b>	<b>16,367</b>	<b>15,804</b>	<b>20,095</b>	<b>+ 22.8</b>	<b>+ 27.2</b>
<b>TOTAL FELONIES</b>	<b>0</b>	<b>0</b>	<b>0</b>		
SMALL CLAIMS	N/A	N/A	N/A		
CIVIL SUITS	N/A	N/A	N/A		
FORCIBLE DETAINER	N/A	N/A	N/A		
<b>TOTAL CIVIL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>		
<b>TOTAL ALL CASES</b>	<b>27,985</b>	<b>28,078</b>	<b>38,163</b>	<b>+ 36.4</b>	<b>+ 35.9</b>

**HEARINGS/OTHER PROCEEDINGS  
TEMPE MUNICIPAL COURT**

<u>TYPE</u>	<u>FY91</u>	<u>FY92</u>	<u>FY93</u>
SM CLAIM TRIALS	N/A	N/A	N/A
CIV TRAF HEARINGS	35,733	18,118	914
PRELIM HEARINGS	0	0	0
INITIAL APPEARANCES	3,278	5,410	4,541
DOM VIO REV/MOD HEAR	31	50	43
HARASS REV/MOD HEAR	20	46	33
PEACE BOND HEARINGS	0	0	0
FUGATIVE COMP HEARINGS	0	0	0
JUV DETENTION HEARINGS	N/A	N/A	N/A
SEARCH WARRANTS ISSUED	86	129	136

**WARRANTS OUTSTANDING AS OF JUNE 30**

<b>TRAFFIC</b>			
DUI	748	865	1,098
SERIOUS VIOLATIONS	93	69	74
ALL OTHER VIOLATIONS	1,318	1,145	1,469
FTA	0	0	0
<b>TOTAL</b>	<b>2,159</b>	<b>2,079</b>	<b>2,641</b>
<b>CRIMINAL</b>			
FELONY	0	0	0
MISDEMEANOR	2,374	2,395	5,766
MISD FTA	0	0	0
<b>TOTAL</b>	<b>2,374</b>	<b>2,395</b>	<b>5,766</b>
<b>TOTAL WARRANTS</b>	<b>4,533</b>	<b>4,474</b>	<b>8,407</b>

Analysis of monthly totals for this period provides the following data:

<u>Month</u>	<u>1991 Hearings</u>	<u>1992 Hearings</u>	<u>1993 Hearings</u>	<u>1994 Hearings</u>
Jan	2,797	0	52	55
Feb	3,251	2,610	52	69
Mar	3,317	118	97	
Apr	3,231	88	95	
May	2,828	107	69	
Jun	2,719	0	72	
Jul	2,861	98	64	
Aug	2,421	76	96	
Sep	2,289	88	112	
Oct	2,567	82	85	
Nov	2,394	73	86	
Dec	2,662	60	47	

#### Statistical Corrections

Corrections made to the monthly statistical report filed with the Arizona Supreme Court range from 1 to 6,477 with corrections in the hundreds and thousands being the most frequent.

#### **RECOMMENDATIONS**

The Court needs to regain control over its statistical reporting process. When the Court Services Supervisor was asked about statistical inconsistencies, many of the answers credited computer programming problems. For example, when questioned about the doubling of civil traffic pending cases in just one year, the numbers themselves were questioned and the problem attributed to a "computer glitch." In another instance, when asked why the number of pending cases increased 36% while both filings and dispositions decreased approximately 10%, the explanation was that pendings were overstated and dispositions were understated due to a "computer problem."

When asked about the dramatic change in the number of civil traffic hearings, the response was that the definition of "hearing" was changed from a defendant appearing before a hearing officer to a defendant having a court hearing to determine a guilty or not guilty verdict. The current method of counting these hearings is correct and should be continued.

Because much of the statistical reporting problems are being attributed to automation, considerable attention needs to be made toward rectifying this issue. Erroneous reports with huge statistical corrections do not support administrative decisions as they should. Assuming the statistical variations are correctly attributable to automation problems, the Court needs to implement a case management process and computer programming which will ensure the integrity of the statistical reporting process through an audit trail of documentation.



## **CASE FILE ACTIVITY STATISTICAL ANALYSIS**

### **FINDINGS**

#### **Case Filings**

Total filings declined 9.6% from 1992 to 1993. Filings increased 1% from 1991 to 1992.

From 1992 to 1993, DUI filings dropped 18%, serious traffic filings fell 20%, and other traffic was down 36%. Filings of civil traffic cases for the period was off 8%.

Criminal misdemeanor filings declined 6% from 1992 to 1993.

#### **Dispositions**

Total dispositions declined 11% from 1992 to 1993. Dispositions were also down 13% from 1991 to 1992 for an overall decline for the three year period of 22%.

Because criminal traffic dispositions increased 15% from 1991 to 1992, the drop in dispositions by 31% for these same types of cases for 1992 to 1993 is accentuated. Civil traffic dispositions declined in 1992 by 20% and again in 1993 by 11% for an overall drop of 29% for the three year period.

Criminal misdemeanor dispositions increased 1% from 1992 to 1993.

#### **Pending Cases**

Total pending cases increased 36% from 1992 to 1993. Pendencies increased .3% from 1991 to 1992.

Criminal traffic pendings increased from 1992 to 1993 decreased overall by 7%. However, there is considerable disparity within this statistic. DUI and serious traffic cases pending before the court increased 65% and 52% respectively. However, other traffic pendings declined 42%. Civil traffic pendings almost doubled from 1992 to 1993 jumping from 6,800 cases to 13,000.

Criminal misdemeanor pendings increased 36% from 1992 to 1993.

#### **Civil Traffic Hearings**

Civil traffic hearings nearly became non-existent between 1991 and 1993. The annual fiscal year totals are as follows:

<u>Year</u>	<u>Hearings</u>
FY91	35,733
FY92	18,118
FY93	914

Analysis of monthly totals for this period provides the following data:

<u>Month</u>	<u>1991 Hearings</u>	<u>1992 Hearings</u>	<u>1993 Hearings</u>	<u>1994 Hearings</u>
Jan	2,797	0	52	55
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Mar	3,317	118	97	
Apr	3,231	88	95	
May	2,828	107	69	
Jun	2,719	0	72	
Jul	2,861	98	64	
Aug	2,421	76	96	
Sep	2,289	88	112	
Oct	2,567	82	85	
Nov	2,394	73	86	
Dec	2,662	60	47	

#### **Statistical Corrections**

Corrections made to the monthly statistical report filed with the Arizona Supreme Court range from 1 to 6,477 with corrections in the hundreds and thousands being the most frequent.

#### **RECOMMENDATIONS**

The Court needs to regain control over its statistical reporting process. When the Court Services Supervisor was asked about statistical inconsistencies, many of the answers credited computer programming problems. For example, when questioned about the doubling of civil traffic pending cases in just one year, the numbers themselves were questioned and the problem attributed to a "computer glitch." In another instance, when asked why the number of pending cases increased 36% while both filings and dispositions decreased approximately 10%, the explanation was that pendings were overstated and dispositions were understated due to a "computer problem."

When asked about the dramatic change in the number of civil traffic hearings, the response was that the definition of "hearing" was changed from a defendant appearing before a hearing officer to a defendant having a court hearing to determine a guilty or not guilty verdict. The current method of counting these hearings is correct and should be continued.

Because much of the statistical reporting problems are being attributed to automation, considerable attention needs to be made toward rectifying this issue. Erroneous reports with huge statistical corrections do not support administrative decisions as they should. Assuming the statistical variations are correctly attributable to automation problems, the Court needs to implement a case management process and computer programming which will ensure the integrity of the statistical reporting process through an audit trail of documentation.

To verify the computer "glitch" hypothesis, the Court should undertake an audit of its own. The starting point of this audit may be attempting to explain why Pending Civil Traffic cases increased 91% from 1992 to 1993 while Other Traffic decreased 42% and Civil Traffic case filings and dispositions declined. Other statistical inconsistencies which may be discerned through the Court's own analysis should also be investigated. A detailed summary of these reports is provided in the Appendix. A report of the Court Administrator's findings in this regard should be submitted to the Administrative Office of the Arizona Supreme Court by July 1, 1994.

### **Summary**

This statistical data when considered together raise some interesting questions:

1. What happened administratively from 1992 to 1993 that caused the number of pending cases to increase 36% even though total case filings and dispositions decreased 9.6% and 11% respectively?
2. What caused civil traffic pending cases to nearly double from 1992 to 1993?
3. When defendants fail to appear for civil traffic cases and default judgments are issued (an MVD disposition code of 58), are these cases counted as dispositions statistically?
4. What happened between February and March 1992 which changed the course of the pattern of civil traffic hearings?
5. Is there a relationship between the dramatic increase in civil traffic pendings and the dramatic decrease in the number of civil traffic hearings?
6. If the standard (in 1991) for civil traffic hearings was 2,500 per month and the standard became less than 100 (in 1992 and 1993), what happened to the remaining 2,400 cases? Were they sent to traffic school? If so, was there no follow-up from the school which is the reason for the increase in the number of pending civil traffic cases?

**COURT EXPENDITURES SURVEY  
(IN THOUSANDS)**

<u>TYPE</u>	<u>FY92 ACTUAL</u>	<u>FY93 ACTUAL</u>	<u>FY94 ACTUAL</u>
SALARIES	547.5	638.5	599.9
FRINGE BENEFITS	113.0	125.9	124.1
OPERATIONS	351.2	324.8	318.5
EXTERNAL SERVICES	483.3	523.0	640.1
TRAVEL	.2	.6	2.9
CAPITAL	.0	.0	.0
<b>TOTAL</b>	<b>1,495.1</b>	<b>1,612.8</b>	<b>1,685.5</b>

# COURT REVENUE SURVEY (IN THOUSANDS)

ACCOUNT	FY92				FY93				FY94	
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
SECTION 1 - FINES, SANCTIONS, ASSESSMENTS, FORFEITURES										
J. CITY GEN FUND	502	502	502	415	374	335	303	342	333	312
L. TOTAL DIST	502	502	502	415	374	335	303	342	333	312
SECTION 2 - SURCHARGES										
A. CJE	108	99	166	102	84	83	50	99	40	86
B. VCF	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C. AATF	0	0	0	0	0	0	0	0	0	0
D. EMSOF/SGF	4.4	9.1	7.1	7.0	6.3	8.6	7.3	9.0	7.2	15
E. CLAF	0	0	0	0	0	0	0	0	0	0
F. SHIF	0	0	0	0	0	0	0	0	0	0
G. JCEF (Local)	0	6.4	8.4	6.8	6.2	5.4	4.3	5.7	0	6.5
JCEF (State)	0	14	12	12	8.2	13	7.2	9.0	6.6	14
I. TOTAL DIST.	126	129	194	127	104	110	68	122	54	121
SECTION 3 - FEES										
B. INDIGENT	1.8	28.5	1.3	1.8	.4	3.1	1.5	.5	1.6	
C. PROTECTION	.7	7.7	.8	.7	.7	1.9	.6	.6	1.3	
E. DEF. DRIVING	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
F. CITY FUND	191	171	230	260	191	178	279	239	195	243

[illegible]

# APPENDIX J

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## TEMPE ORGANIZATIONAL REVIEW TEAM TASK CHART

# ORGANIZATIONAL REVIEW CHART

	RECOMMENDATION	ACTION	STATUS
1	EVALUATE THE NEED FOR ADDITIONAL CLERICAL STAFF		COMPLETED
2	REPEAL CONTRACT WITH TEND, INC.		COMPLETED EFFECTIVE 03/11/94
3	CREATE TWO HEARING OFFICER POSITIONS		COMPLETED
4	ELIMINATE COURT SVS SUPERVISOR IN TRAFFIC DIVISION	NONE	POSITION TO BE RETAINED
5	CREATE AN ADMINISTRATIVE HEARING OFFICER POSITION	NONE	NOT NEEDED
6	CLASSIFICATION STUDY OF POSITIONS IN CITY COURT LISTED IN REPORT		IN PROGRESS
7	DEVELOP LIST OF STAFF CONCERNS RE: JUDICIAL SOFTWARE SYSTEMS		IN PROGRESS
8	PROVIDE WRITTEN REPORT BY PRESIDING JUDGE RE: STAFF CONCERNS ABOUT JUDICIAL SOFTWARE SYSTEM		IN PROGRESS
9	EST. A JUDICIAL SOFTWARE USERS GROUP		IN PROGRESS
10	PROVIDE ONE PUBLIC ENTRANCE TO CRIMINAL DIVISION		COMPLETE
11	INSTALL MECHANICAL BUTTON LOCK BETWEEN POLICE & COURT INTO CRIMINAL DIVISION WORK AREA		COMPLETE
12	INSTALL FIFTEEN PANIC BUTTONS		IN PROGRESS
13	POST SIGNAGE PORHIBITING THE CARRYING OF DEADLY WEAPONS		IN PROGRESS
14	PROVIDE SECURITY TRAINING TO ALL COURT EMPLOYEES		COMPLETE



	RECOMMENDATION	ACTION	STATUS
15	INITIATE SECURITY STUDY OF COURT FACILITY BY POLICE DEPARTMENT		COMPLETE
16	DETERMINE THE ACCEPTABLE SECURITY RISKS & ACCEPTABLE LIABILITIES WITHIN THE CITY COURT		COMPLETE
17	EXPLORE THE FEASIBILITY OF IMPOSING ADDITION SURCHARGES		COMPLETE-NOT NECESSARY
18	MONITOR THE PROGRESS OF RELOCATING HUMAN RESOURCES. DEVELOP OPTIONS		IN PROGRESS
19	CREATE COURT ADMINISTRATOR POSITION		COMPLETE
20	ELIMINATE ONE PART TIME JUDGE POSITION		IN PROGRESS
21	EVALUATE THE NEED FOR PROTEM JDUGE		COMPLETE
22	EXPLORE MERGING CRIMINAL & FINES ADMIN		IN PROGRESS
23	IMPLEMENT A DIVISION SYSTEM		IN PROGRESS
24	ELIMINATE PART TIME JUDGE POSITION & CREATE FULL TIME JUDGE POSITION		IN PROGRESS
25	DISCONTINUE POLICY OF ACCEPTING FAX CONTINUANCES		COMPLETE-REFERENCE TO SPECIAL TREATMENT
26	IMPLEMENT POLICY FOR TIME RESTRICTIONS OF CONTINUANCES		COMPLETE
27	DEVELOP A POLICIES & PROCEDURES MANUAL		IN PROGRESS
28	PLACE NEW POLICY & PROCEDURES MANUAL IN EACH DIVISION		IN PROGRESS
29	IMPLEMENT CROSS TRAINING PROGRAM FOR CLERKS		IN PROGRESS

	RECOMMENDATION	ACTION	STATUS
30	REPEAL CONTRACT WITH JURY COMMISSION	NONE	COMPLETE
31	OBTAIN JURORS THROUGH LIST PROVIDED BY JURY COMMISSION		COMPLETE
32	MOVE BUDGET FOR MARICOPA COUNTY JAIL COSTS TO ANOTHER COST CENTER		IN PROGRESS
33	ESTABLISH QUARTERLY MEETING TO DEVELOP STRATEGY FOR JAIL COSTS W/ JUDGES		COMPLETE
34	IMPLEMENT A RFP FOR INDIGENT DEFENSE SERVICES		IN PROGRESS
35	MONITOR CASELOAD OF PUBLIC DEFENDERS		COMPLETE
36	REQUIRE INDIGENT DEFENSE CONTRACTORS TO PROVIDE QUARTERLY REPORTS		COMPLETE
37	ESTABLISH FORMAL FILING SYSTEM & ASSIGN RESPONSIBILITY		IN PROGRESS
38	IMPLEMENT A CLEAN DESK POLICY		IN PROGRESS
39	IMPLEMENT THE USE OF "FILE OUT" CARDS		IN PROGRESS
40	ADDRESS ISSUE OF ARRAIGNMENT SCHEDULING W/ CRIMINAL JUSTICE COMM.		IN PROGRESS
41	LIMIT NO. OF PERSONS W/ACCESS TO CASH		COMPLETE
42	PROVIDE WRITTEN CASH HANDLING PROCEDURES TO STAFF		IN PROGRESS
43	IMPLEMENT APPROVAL PROCESS FOR BACK-DATED PAYEMENTS		COMPLETE
44	IMPLEMENT POLICY TO RESTRICTIVELY ENDORSE CHECK WHEN RECEIVED		IN PROGRESS

	RECOMMENDATION	ACTION	STATUS
45	REQUEST AUDIT OF CASH HANDLING PROCEDURES BY INTERNAL AUDIT WHEN SOFTWARE IS FULLY IMPLEMENTED		IN PROGRESS
46	IMPLEMENT THE MINIMUM ACCTG STANDARDS		COMPLETE
47	REQUIRE FINES ADMINISTRATION FUNCTIONS TO BE PERFORMED IN OFFICE		COMPLETE
48	TRAIN SENIOR ADMINISTRATIVE CLERK TO INTERVIEW DEFENDANTS		IN PROGRESS
49	REQUIRE FAD TO BE OPERATIONAL DURING BUSINESS HOURS		COMPLETE
50	IMPLEMENT A MANUAL SYSTEM TO TRACK OUTSTANDING FINES		IN PROGRESS
51	ISSUE WARRANTS EXPEDITIOUSLY		IN PROGRESS
52	CREATE EXECUTIVE COMMITTEE TO ADDRESS JUDICIAL PROCESS PROBLEMS		IN PROGRESS

# APPENDIX K

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## MEMORANDUM LISTING OUTSTANDING JUDICIAL SYSTEM TASKS

**InterOffice Memo**

**To:** Vic Appelt, Maurice Evans  
**From:** Milt Dahl  
**Date:** March 8, 1994  
**Subject:** Outstanding Judicial System Tasks

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Attached is a copy of the *Judicial System Outstanding Task* list. In addition to this list I would also like to summarize what Systems and Programming is currently working on:

*Milt Dahl*

- Finishing up changes to Gentry to allow Maurice access to Security Tables and Reference Code Table (will be completed 3/8/94)
- Printing of warrants - This project will start next week and should take an estimated 100 hours to complete

*Henry Wade*

- Currently working on changes to correct problem with restitution (80 hours remaining)
- Next task will be the changes mandated by the Supreme Court regarding calculation of surcharges which will require approximately 100 hours

*Richard Smith (contract programmer)*

- Currently working on several COBOL programs necessary for reporting information to collection agency which should be done next week
- Next task will be to correct problems with the on-line calendar system which will require 160 hours initially

**CC:** Henry Wade

# Judicial System Outstanding Tasks

Updated March 8, 1994, 10:08 AM

TASK #	SYSTEM	SCREEN/PGM	DESCRIPTION	HOURS	COMP
2	BOTH		Create location codes for bar code readers	20	0
4	BOTH		Install bar code readers for tracking file location	50	0
6	BOTH		Test/install existing electronic forms and create additional forms	320	0
11	BOTH		Edit citation number on all screen to separate number from suffix with a "-"	20	100%
12	BOTH		Fix all screens to do what they were designed to do. More specifically, clean up function key labels, edits, etc.	30	0
13	BOTH		Standardize storage of dates and times through out the entire system.	120	0
14	BOTH	GENTRY	Clean up various items and groups, set up new groups and expose all items currently hidden. Enhance current capabilities to meet user needs.	80	0
17	CASE		Need ability to block out courtrooms or judges when vacations, illness, etc., occurs.	40	0
18	CASE		Modify the DOCKET in the case data base so that items such as DATE, JUDGE, etc. currently in the information line are treated as separate items. This will involve data base changes, conversion programs and modifying of all existing programs that access the DOCKET.	120	0
20	CASE		Submit debt scioff to AOC.	30	0
23	CASE		Fix purge calendar option in the security screen.	15	0
25	CASE	CASE021	Clean up.	20	0
27	CASE		All messages that currently read 'DOCKET UPDATED' should be changed to 'CASE HISTORY UPDATED'.	3	0
28	CASE		Case history should reflect the balance after a void is made in the payment screen.	10	0
30	CASE		Create program to generate bar code labels	5	0
31	CASE		Officer unavailable is not preventing requested dates from being scheduled on the calendar.	15	0
32	CASE		When arraignment is set, it should NOT bring up the calendar screen but just allow the user to enter date and time.	5	0
33	CASE	CASE103E	Auto calendar is allowing a holiday to be selected	10	0
34	CASE	CASE00P	Lookup doesn't appear to show all records.	6	0
35	CASE	CASE00P	PREV/MORE Records function not working properly.	4	0
36	CASE	CASE02	Change wording on deleted cases. <b>NEED TO KNOW WHAT NEW WORDING SHOULD BE.</b>	2	0
37	CASE	CASE02	Check function of date edit to the left of the TIME field. One example given to me showed the date as '9/3// '.	5	100%
38	CASE	CASE14	Correct problem or explain why the following error message is displayed: MULTIPLE RECORDS - USE F5 & F6 TO VIEW.	5	0
41	CASE	CASE09	Place correct edits in violation code field (i.e. 28- 692.A1)	2	100%
44	CASE	CASE103	Find and correct problem that is causing INVALID POINTER ERROR when suspension date is used for the 27th time without going back to the Case Menu.	30	0
45	CASE	CASE103	Find out the meaning of the following error message: DATE/TIME SCHEDULING ONLY FROM CIT SELECTION.	10	0
46	CASE	CASE103	When you hit enter to post a record, the reference description no longer displays and thus does not post to case history.	5	100%
47	CASE	CASE1032	Check date edit routine(said 1/19/93 was invalid but 01/19/93	2	100%

48	CASE	CASE1033	Correct problem that is causing the Notepad function to display the following error message: ENTER NOTEPAD AND PRESS 'ENTER'	2	0
49	CASE	CASE103C	'Please press <ENTER> before pressing <POST IT>...' message should read 'CASE HISTORY UPDATED'	2	100%
51	CASE	CASE103E	Add Officer number and name to screen.	2	0
52	CASE	CASE103E	Find out why REMAINING SLOTS is blank.	2	0
56	CASE	CASE108	Function key 3(REMOVE OFFICER) does not work.	5	0
61	CASE	REPORT	The following changes are required for the individual Cash History printout that is produced from the Report Menu(option 11, #1): Change DOCKET SHEET to CASE HISTORY in heading, remove NEXT COURT DATE and OPENED fields, remove WARRANT info from top lines as it will appear in the body and remove disposition code and date on top-right side of report.	20	0
63	CASE	Report	Add dates and times to Officer Table report.	10	0
67	CASE		Fine tune calendar entry/update so it can be used instead of Word Perfect.	30	0
76	CASE		When action such as a new pre-trial date is assigned, old date and time should be deleted to free it up for use by another case.	24	0
77	CASE		On Case History entry/update (CASE103) the judge field should not be cleared as long as you are updating on the same case number.	4	0
78	CASE		Use time as part of key on case history so that items sort in proper sequence.	40	0
87	CLER	CLER01	TOTAL COLLECTED should be moved to the right so it aligns with the AMOUNT heading.	2	0
88	CLER	CLER041	When you delete a Bondsman, it does not delete the Bondsman Number and then puts you in the ADD mode. It will not let you change mode(F1) after a delete when it takes you to CLER041 and puts you in the add mode.	10	0
89	CLER	CLER042	Does not delete the Bondsman's number when you delete a bondsman from the table.	10	0
90	CLER	CLER045	Maurice would like to change to format of this screen. Henry has the requested layout on file.	10	0
92	CLER	CLER14	Change F4 to read PREV MENU.	1	100%
93	CLER	CLER14	Citation number needs a dash between number and suffix	1	100%
95	CLER	CLER14	Citation suffix should be preceded by a dash (i.e. 234-C instead of 241C).	1	100%
96	CLER	CLER310	Division in Case Number should be a required field.	1	100%
97	CLER	CLER310 (7)	'AMOUNT FOR THIS PAYMENT PLAN' is not sufficient. User feels amount should be brought forward from previous screen so they know what the payment should be.	6	0
98	CLER		Overpayment should automatically be voided when a subsequent fine/fee adjustment brings the balance owing to zero rather than to a credit situation.	30	0
99	CLER		Clean up the NSF program (examples are on file).	50	0
102	FAD		Add statement 'MAKE CHECK OR MONEY ORDER PAYABLE TO TEMPE CITY COURT' to Time Payment Schedule.	6	0
104	FAD		Modify system to allow FAD to create their own division(div four). Currently we have 1, 2 and 3.	16	0
106	FAD		When a case is referred to FAD, an MCO(Monetary Court Order) needs to be printed on FAD's printer containing defendant name, case #, amount owed, charge and description, etc.	20	0

	FAD		Implement a series of notices for payments 10 days late of due date. Identify defendants who have been sent the series of notices but have failed to pay on their case and are now eligible for 13-810 warrant. (adding the ability to allow user to modify text on the notices would require and additional 40 hours)	30	0
110	FAD		Monetary Court Orders	10	0
112	PARK	Gentry	Add program REPORTS to selection list.	3	0
113	PROS	CASE101	? on attorney look-up failed (check this again to make sure)	6	0
114	PROS	CASE103	Write Attorney/Pros name to case history when added or changed	10	0

<b>Total hours required for all items:</b>	<b>1576</b>	<b>Expressed in weeks:</b>	<b>39.4</b>
<b>Total hours remaining:</b>	<b>1308</b>	<b>Expressed in weeks:</b>	<b>32.7</b>
<b>Percentage completed to date:</b>	<b>17%</b>		



# APPENDIX L

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## TEMPE POLICE DEPARTMENT TEMPE MUNICIPAL COURT SECURITY RECOMMENDATIONS

Police Department

April 4, 1994

C. Kimball Rose  
Presiding Superior Court Judge  
Maricopa County  
201 W. Jefferson  
Phoenix, AZ

Honorable Louraine Arkfeld  
Intern Presiding Tempe City Court Judge  
140 E. Fifth Street  
Tempe, AZ 85281

**REF: TEMPE CITY COURTS SECURITY RECOMMENDATION**

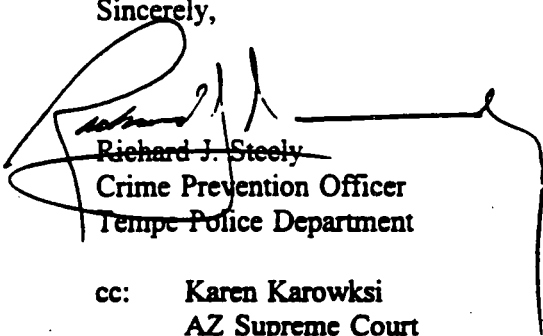
Per the request of the court, I was contacted to conduct an on-site security evaluation for both Tempe Municipal courts, the Criminal and Traffic Divisions. After on-site visits and interviewing various court personnel, I was able to articulate some solutions that would reduce or minimize the opportunities for crime in these areas.

The primary goal was to identify security problems, make recommendations and incorporate the concept of Crime Prevention Through Environment Design "CPTED" for all users.

Attached you will find the following purposed recommendations which have been prioritized accordingly for immediate and long range needs. Since the initial walk-through some of the security recommendations have been addressed and incorporated.

Thank you for allowing me the opportunity to present this preliminary review on security and concerns that affect the Tempe Municipal courts. If I could be of further assistance or if you have additional questions pertaining to this report, please feel free to contact me.

Sincerely,

  
Richard J. Stealy  
Crime Prevention Officer  
Tempe Police Department

cc: Karen Karowski  
AZ Supreme Court

**The 100th Internationally Accredited Law Enforcement Agency**



<p><b>THE TEMPE MUNICIPAL COURT CRIMINAL DIVISION</b> <b>140 E. 5TH STREET, SECOND FLOOR</b></p>
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The following are recommendations:

**I. IMMEDIATE SECURITY NEEDS:**

**A. ACCESS DOORS & LOCKS:**

1. All exterior access doors, except for the door leading into the lobby area shall be of the "combination security code lock" style that is currently being used on other doors in the court and public safety building. Combination security code shall be changed periodically and or when there is a risk of breach of security.
2. The thumb turn style of lock in the door leading into the lobby area for the general public should be replaced with a double keyed deadbolt.
3. All interior corridor doors shall also have the combination security type lock. Once again codes changed periodically when needed.

**B. ACCESS DOORS, SECURITY WINDOWS**

1. All access doors, external and internal that are of solid wood construction shall be retrofitted with a minimum of a 6" x 6" security window, glazing consisting of Lexgard. Mounting should be no lower than 56" measured from the bottom of doorway and centered.
2. Mirrored finished glazing shall be incorporated on the doors in the hallway leading to the judge's chambers administrative area.

**C. LIGHTING LEVELS**

1. Increase the lighting levels on the second floor landing area which also includes the restroom areas and also the reception area, also known as the lobby.
2. Fluorescent lighting and or metal halide would be a better lighting source, since colors are more true in light conditions as noted.

**D. INFORMATION WARNING SIGNS**

1. Warning signs should be posted at conspicuous points leading into the court building and lobby area prohibiting guns, knives, or other dangerous instruments and behavior or conduct that would be considered disruptive. Other restrictions may be applicable and placed on these signs.

#### **E. CUSTOMER SERVICE COUNTER IN LOBBY AREA**

1. Incorporate a new counter with partitions that go up, this discourages entry into the court clerks work area. Supplement the partition with glazing material made of Lexgard or high risk security glazing.
2. By providing the new counter partitions it would not only allow limited access but also would allow the cash box to be more concealed and inaccessible to the general public.
3. Retrofit existing counter supportive wall with a metal plating or similar material so the wall can not be penetrated by any objects.

#### **F. VIDEO CAMERAS AND MONITORING**

1. Video cameras shall be strategically located throughout the court facility
  - a. Minimum of two cameras placed in the reception lobby area. Additional camera placed in the clerk area facing the front counter.
  - b. One camera placed in each of the corridors and hallways including that of the hallway leading to the judge's chambers and administrative area. (The location of these security cameras, monitoring devices the exact location would be determined later).
  - c. One camera should be placed monitoring the door of the elevator on the second floor.
  - d. All cameras that are mounted shall be conspicuously placed to draw attention including a red indicator light indicating that the cameras are operating. The cameras shall be dedicated and of a style that records activity on a 24-hour basis.
  - e. The installation of a minimum of three 13" monitors shall be placed in one of the administrative areas and away from the front counter. This allows courtroom employees to periodically view the activities throughout the court building, location determined later.

#### **G. ALARMS**

1. Panic alarms shall be installed in the courtrooms, the front desks, judge's chambers, and in the area where the cameras will be monitored.
2. Termination of these panic alarms shall be coordinated with the Tempe Police Department and the installation in the Communications area.
3. Indicator lights or small strobe style lights shall be placed strategically outside the courtroom indoor areas to indicate where the problem or alarm was activated from. This allows quick identification.

## **H. ACCESS CONTROL AFTER HOURS**

1. After the court is closed and doors are locked, access can only be gained by utilizing an access control card.
2. Currently, the City of Tempe has such a system in place at city hall and therefore, the court building may be able to piggyback onto this system without buying a stand alone system.

## **II. LONG TERM, LONG RANGE SECURITY PLANS AND IMPLEMENTATION**

### **A. METAL DETECTORS**

1. The installation of metal detectors, would be very applicable for the court's use, however, it's very labor intensive as it must be continually monitored.

### **B. GLAZING**

1. Doors and windows on all exterior areas, especially the area into the main court lobby area, should be retrofitted with one of the three bullet resistant materials. Listed in order from best protection to least, 1) Lexgard, 2) Acrylic, 3) Glass.

The more protection you get the more labor cost are. Special attention to edge engagement (frames).

### **C. COURTROOM BAILIFF/SECURITY PERSONNEL**

1. Bailiffs and or security personnel should be staffed providing additional deterrence and can respond immediately.

### **D. DESIGN**

1. A task force comprising of representatives from the court, crime prevention unit and an architect dealing with court security. Court building should be assembled to identify problems and possible remedies that will create a safer environment within the court building.

✓

**THE TEMPE MUNICIPAL COURT TRAFFIC DIVISION  
140 E. 5TH STREET; FIRST FLOOR**

The following are recommendations:

**I. IMMEDIATE SECURITY NEEDS:**

**A. ACCESS DOORS & LOCKS:**

1. All exterior access doors, except for the door leading into the lobby area shall be of the "combination security code lock" style that is currently being used on other doors in the court and public safety building. Combination security code shall be changed periodically and or when there is a risk of breach of security.
2. The thumb turn style of lock in the doors leading into the lobby area for the general public should be replaced with double keyed deadbolts.
3. All interior corridor doors shall also have the combination security type lock. Once again codes changed periodically when needed.
4. Replace the existing door (1/2 gate) immediately to the north of the front counter. The court administrator area should be a secure area, therefore, a full size solid door is recommended, consisting of a minimum 20" x 20" centered window, glazing consisting of Lexgard. Locking device shall be as recommended in A.1.

**B. ACCESS DOORS, SECURITY WINDOWS**

1. All access doors, external and internal that are of solid wood construction shall be retrofitted with a minimum of a 6" x 6" security window, glazing consisting of Lexgard. Mounting should be no lower than 56" measured from the bottom of doorway and centered.
2. Mirrored finished glazing shall be incorporated on the door in the hallway leading to the courts administrative area.

**C. LIGHTING LEVELS**

1. Increase the lighting levels immediately outside the court reception area which also includes the restroom areas, (special attention over entry areas).
2. Fluorescent lighting and or metal halide would be a better lighting source, since colors are more true in light conditions as noted.

#### **D. INFORMATION WARNING SIGNS**

1. Warning signs should be posted at conspicuous points leading into the court building and lobby area prohibiting guns, knives, or other dangerous instruments and behavior or conduct that would be considered disruptive. Other restrictions may be applicable and placed on these signs.

#### **E. CUSTOMER SERVICE COUNTER IN LOBBY AREA**

1. Incorporate a new counter with partitions that go up, this discourages entry into the court clerks work area. Supplement the partition with glazing material made of Lexgard or high risk security glazing.
2. By providing the new counter partitions it would not only allow limited access but also would allow the cash box to be more concealed and inaccessible to the general public.
3. Retrofit existing counter supportive wall with a metal plating or similar material so the wall can not be penetrated by any objects.

#### **F. VIDEO CAMERAS AND MONITORING**

1. Video cameras shall be strategically located throughout the court facility
  - a. Minimum of two cameras placed in the reception lobby area. Additional camera placed in the clerk area facing the front counter. (The angle will provide surveillance of the new cashiers area).
  - b. One camera placed in the hallways including that of the hallway leading to the judge's chambers, records storage room, and administrative area. (The location of these security cameras, monitoring devices the exact location would be determined later).
  - c. All cameras that are mounted shall be conspicuously placed to draw attention including a red indicator light indicating that the cameras are operating. The cameras shall be dedicated and of a style that records activity on a 24-hour basis.
  - d. The installation of a minimum of two 13" monitors shall be placed in the court services supervisors office. This allows courtroom employees to periodically view the activities throughout the court building.

#### **G. ALARMS**

1. Panic alarms shall be installed in the courtroom, the front desks, cashier's office, records storage clerks room, judge's chambers, and in the area where the cameras will be monitored.
2. Termination of these panic alarms shall be coordinated with the Tempe Police Department and the installation in the Communications area.

3. Indicator lights or small strobe style lights shall be placed strategically outside the courtroom indoor areas to indicate where the problem or alarm was activated from. This allows quick identification.

#### **H. ACCESS CONTROL AFTER HOURS**

1. After the court is closed and doors are locked, access can only be gained by utilizing an access control card.
2. Currently, the City of Tempe has such a system in place at city hall and therefore, the court building may be able to piggyback onto this system without buying a stand alone system.

#### **I. MISCELLANEOUS**

##### **A. SECURITY MIRROR**

1. Install a security mirror court clerk/staff area to view the hallway of users, while at their desks.

##### **B. PASS THROUGH WINDOW**

1. Install small pass through window from interior hallway to the courtroom, near the judge's bench.

### **II. LONG TERM, LONG RANGE SECURITY PLANS AND IMPLEMENTATION**

#### **A. METAL DETECTORS**

1. The installation of metal detectors, would be very applicable for the court's use, however, it's very labor intensive as it must be continually monitored.

#### **B. GLAZING**

1. Doors and windows on all exterior areas, especially the area into the main court lobby area, should be retrofitted with one of the three bullet resistant materials. Listed in order from best protection to least, 1) Lexgard, 2) Acrylic, 3) Glass.

The more protection you get the more labor cost are. Special attention to edge engagement (frames).

#### **C. COURTROOM BAILIFF/SECURITY PERSONNEL**

1. Bailiffs and or security personnel should be staffed providing additional deterrence and can respond immediately.



#### **D. DESIGN**

1. A task force comprising of representatives from the court, crime prevention unit and an architect dealing with court security. Court building should be assembled to identify problems and possible remedies that will create a safer environment within the court building.

# APPENDIX M

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## COURT OPERATIONAL REVIEW EVALUATION LISTING OF RECOMMENDATIONS

# **COURT OPERATIONAL REVIEW EVALUATION**

## **TEMPE MUNICIPAL COURT**

### **Listing of Recommendations**

#### **ADMINISTRATION**

##### **Judicial**

##### **Recommendation 1:**

A full-time Court Administrator should be hired to serve in the administrative capacity, allowing the Presiding Judge to carry a caseload and be more involved with judicial activities. A Court Administrator would be instrumental in ensuring compliance with statutes, orders and rules, and improving the efficiency of court operations and case processing. Refer to Tempe City Organizational Review Team Report (Appendix D, ISSUE 4.1).

**Note:** Recruitment is currently being conducted by the City of Tempe to fill the position of Presiding Judge and Court Administrator. July 1, 1994, is the projected hiring date for both positions.

##### **Recommendation 2 a:**

Personal business dealings between judges and court personnel should not be allowed. Policies and procedure regarding personal use of court property should be developed.

Judges should comply with the Arizona Code of Judicial Conduct; Canon 4a, d, e, and g: "A Judge shall conduct extra-judicial activities as to minimize the risk of conflict with judicial obligations. A Judge shall not engage in financial and business dealings that may be perceived to exploit the judge's judicial position. A Judge shall not engage in fiduciary activities by serving as executor, administrator or other personal representative which would interfere with the proper performance of judicial activities. A Judge shall not practice law."

##### **Recommendation 2 b:**

The Attorney General's Office should investigate the "investment activities" of Judge Mirretti to determine if any security laws have been violated and should determine exactly where monies given to Judge Mirretti for investment are.

### **Recommendation 3:**

**Court reports should not be routinely generated for individuals unless generated in the normal work of court business. If reports are generated a proper fee should be charged and the reports should be available to everyone.**

**Judges should comply with the Arizona Code of Judicial Conduct, Canons 3 and 4d: "A Judge shall perform the duties of judicial office impartially and diligently. A Judge shall conduct extra-judicial activities as to minimize the risk of conflict with judicial activities and shall not engage in financial or business relationships with those lawyers or other persons likely to come before the court on which the Judge serves."**

### **Recommendation 4:**

**Irregular handling of citations is not to be allowed. Employees should be encouraged to report questionable conduct to the Commission on Judicial Conduct.**

**Judges should comply with the Arizona Code of Judicial Conduct, Canons 2a, b and 3a: "A Judge shall avoid impropriety and the appearance of impropriety in all activities and perform the duties of judicial office impartially and diligently."**

### **Contract Services**

#### **Recommendation 5 a:**

**Require all contracted Court service providers to compete for the contract through a competitive procurement process. Sole source justification should be provided if competitive process is not used. If the Court does not follow the City procurement code, it should establish or follow a comparable procurement code. Refer to Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.1.).**

#### **Recommendation 5 b:**

**The Administrative Office of the Courts should review the Supreme Court's orders regarding procurement and make appropriate adjustments to include municipal and justice of the peace courts.**

**Note: The Court terminated the TEND and A.C.T.S. contracts effective March 11, 1994. The public defender contract is under review by the Court. The City stated that future Court service contracts will be awarded through the RFP process.**

**Recommendation 6:**

The Court should establish procedures to allow staff to take pleas in traffic matters, and appropriately dispose of insurance, drivers license and vehicle registration tickets once defendants have presented proof they are in compliance. The Court may want to consider civil traffic hearing officer training for staff who perform these tasks. Copies of documentation should be put in case files to verify reduced fines and dismissals. Refer to Arthur Andersen & Co. Report for additional findings and recommendations regarding TEND, Inc., and TEND docket invoices (Appendix C), and Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.1).

**Recommendation 7:**

Pre-signed tickets should be destroyed. The Court should not issue complaints on behalf of the City Prosecutor's Office. The City Attorney should review this issue with his staff and prevent future activities of this nature.

**Note: This practice has ended.**

**Recommendation 8:**

Require the defensive driving school to relocate to an office outside the Court. This will provide additional working space for the Civil Traffic Division and improve Court security. Refer to the Tempe City Organizational Review Team Report (Appendix D, ISSUE 3.2.).

**Note: This recommendation was implemented, effective March 11, 1994.**

**Recommendation 9:**

Develop a new bond envelope with the phone number of the defensive driving school.

**Note: A new bond and fine schedule has been developed. Bond envelopes have been printed and distributed. The bond envelope now includes defensive driving school phone numbers and phone registration instructions (Appendix F).**

**Recommendation 10:**

Refer to Arthur Andersen & Co. Report, Traffic Survival School (Appendix C). The Tempe Court Municipal should immediately stop sending students to TSS for the purpose of dismissing charges. Tempe Municipal Court should stop charging \$150 to attend TSS and the Court should no longer receive fees for defendants attending TSS.

**Note: Referrals to Desert Star have ceased.**

**Recommendation 11:**

**Use a competitive procurement process to contract for indigent defense services or provide sole source justification. Monitor caseload of the public defender and require the public defender to provide monthly reports.**

**Note: Caseload monitoring procedures have been implemented and the public defender is now required to provide monthly reports. An RFP process has been initiated. Refer to Arthur Andersen & Co. Report and public defender contract (Appendix C). Refer to the Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.1.).**

**Administrative Fees**

**Recommendation 12:**

**Review fine and bond schedules used in other comparable municipal court jurisdictions. Develop a new fine and bond schedule appropriate for the Tempe Municipal Court.**

**Note: The Court initiated this process effective March 11, 1994. The new bond schedule reflects fines comparable to other Maricopa County municipal courts (Appendix F).**

**Recommendation 13:**

**No administrative fees should be charged for attendance at court-ordered defensive driving class. A strict daily accounting should be made of all monies collected by the Court.**

**Note: The second offender, court-ordered driving school procedure was abolished effective March 11, 1994, with the termination of the A.C.T.S. contract. Refer to Arthur Andersen & Co. Report, Driving School Case File Documentation (Appendix C).**

**Recommendation 14 a:**

**The Court cannot set a warrant fee and should eliminate it. There is some question as to whether city councils can establish such fees or if the legislature has precluded this.**

**Recommendation 14 b:**

**The Administrative Office of the Courts should determine if city and county legislative bodies, and/or individual courts have the authority to set administrative fees.**

**Recommendation 14 c:**

The legislature should explore setting statewide standard administrative fees for this kind of activity.

**Fines Administration**

**Recommendation 15:**

Civil Traffic Division cases should be added to the scope of duties of the Fines Administration Division. The second Fines Administration employee should be trained to conduct interviews. The Fines Administration Division should be open during all court business hours. Refer to the Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.5.).

**Recommendation 16:**

Cases referred to the Fines Administration Division should be processed by that division and all cases should be monitored until final satisfaction of judgment or sentence. The Court should assign additional staff to assist the Fines Administration Division with clerical follow-up.

**Recommendation 17:**

Limit the number of people who open the mail and endorse and post payments. Identify backup staff to provide this function in the event a clerk is not available. Receivables should be posted daily in accordance with the Minimum Accounting Standards, Section E, and the information should be transmitted to the Fines Administration Division.

**Staffing and Supervision**

**Recommendation 18:**

Employees should be treated in accordance with a court employee personnel policy or Judicial Merit rules.

Judges should be in compliance with the Arizona Code of Judicial Conduct, Canon 3c: "A Judge shall diligently discharge the Judge's administrative responsibilities without bias or prejudice and a Judge shall require staff, court officials and others subject to the Judge's direction and control to observe the standards of fidelity and diligence that apply to the Judge and to refrain from manifesting bias or prejudice in the performance of their official duties."

**Recommendation 19:**

**Develop a Policies and Procedures Manual. Use of the manual will promote consistency and uniformity in procedures and simplify training for Court staff. Promote teamwork, professionalism and understanding of the Court's mission through regularly scheduled staff meetings and training sessions. Expand the scope of supervisory authority to include supervision of contractual employees.**

**Lines of communication should be defined and staff should be encouraged to communicate with each other, the judges and the public. When possible, staff should participate in decisions to change Court procedures. Feedback from staff will ensure smooth transitions as Court operations change.**

**Recommendation 20:**

**There should be two clerk supervisors, one for criminal and one for civil traffic. Duties should be clearly defined. The Court should establish a fixed schedule for clerks to work at the front counter.**

**Training**

**Recommendation 21:**

**The Tempe City Organizational Review Team and the 1989 Tempe Municipal Court study by Arthur Andersen & Co. recommended that "cross-training is encouraged to make other individuals aware of co-workers' job tasks and provide back-up in case of absence." The AOC review staff concurs with this recommendation and suggests the Court develop a cross-training program for Court clerks in the Criminal and Civil Traffic Divisions. Schedules should be rotated among the clerks to provide cross-training for all clerks.**

**Recommendation 22:**

**Court information should be circulated to staff. A routing slip should be attached to documents to ensure all clerks receive new information. The Court supervisors should compile a reference book with separate categories for statistics, MVD, traffic, etc., to organize the information received. The reference book should be in a readily-accessible location. The reference book should be used as a reference guide for staff.**

**Recommendation 23:**

**The Court should consider conducting on-site COJET classes in small groups to minimize time away from the Court and expense to the City of Tempe. Staff should be given an opportunity to request topics of interest for COJET credit.**



**Note: During the period of February 8 through February 20, 1994, COJET classes were conducted for Court staff by Commissioner Toby Gerst, Interim Presiding Judge. Daily seminars were scheduled on Ethics, Introduction to the Justice System and the Order of Trial. All Court staff are now current on Ethics training requirements in accordance with the Supreme Court administrative order.**

## **STATISTICS**

### **Recommendation 24 a:**

**The Court needs to regain control over its statistical reporting process; erroneous reports with huge statistical corrections do not support administrative decisions as they should. The Court needs to implement a case management process supported by accurate computer programming to assure the integrity of the statistical reporting process through an audit trail of documentation.**

### **Recommendation 24 b:**

**To verify the "computer glitch" hypothesis, the Court should undertake an audit of its own to verify statistics produced by the computer system. If the system is producing erroneous data, it should be corrected. If the origin of the inaccurate information is the way data is entered into the system, then procedures to assure correct data entry should be developed and implemented.**

## **RECORDS MANAGEMENT**

### **Recommendation 25:**

**The Court should develop a centralized filing area in order to provide access to Court case files. Closed and pending cases should be filed separately. The Court should consider a check-out system such as out cards or log sheets for case files removed from the filing area. The Court should assign court clerks to the filing area to monitor this function. The bar code capability in the automation system could be activated to accomplish this. Refer to Tempe City Organizational Review Team Report (Appendix D, ISSUE 6.2.).**

### **Recommendation 26:**

**Errors in the automation system should be corrected to ensure that proceedings are accurate. A physical inventory of pending cases should be conducted to provide correct information on case status. The required Supreme Court statistical information can be verified and the Court can make statistical corrections where needed.**

**Recommendation 27:**

Court case files should be marked for easy identification by case type, party names, docket numbers and case status. The Court should continue to use docket numbers in order to identify filing date and case types, and should either use the bar code capability or remove bar codes from files.

**Recommendation 28:**

The Court should require documentation of proceedings and completion of appropriate paperwork by judges on assigned cases. In addition, judges should sign and/or initial all required forms and proceedings at the time of ruling or sentencing.

Docketing procedures and standards should be established to ensure that staff properly docket all case proceedings and that dockets are kept current. (For traffic case requirements, see A.R.S. § 28-1061 and Rule VI, Rules of Procedure in Traffic Cases.)

**Recommendation 29:**

Case files should be removed from hallways in the Civil Traffic Division in order to make the office area accessible. Additional space for shelving and storage for closed cases is needed (See also Finding 55.).

**Recommendation 30:**

The Court should follow the Arizona Supreme Court's Record Retention Schedule. Records that can be destroyed according to the retention schedule should be destroyed. Destruction of case files should be calculated from the date the sentence is completed and/or the judgments have been satisfied. Records that must be retained but are not often used could be stored off-site to minimize storage space. The automation system capabilities should be used to assist in identifying records to destroy and store.

**CASE MANAGEMENT**

**Recommendation 31:**

The Court should use the automation system to establish a court calendar to manage cases more efficiently. The Court should establish and implement a case assignment system, which should include a written policy. A case assignment system is defined as the manner in which cases are assigned to judicial officers. A case assignment system is necessary to schedule events in a timely manner, maintain the court's control over cases and assume judicial responsibility and maintenance of cases. The two most popular case assignment systems are individual and master calendar systems. Under an individual calendar system,

a case is assigned at the time of filing to one of the judges on the court. Under a master calendar system, when a case is filed with the court it goes into a pool of cases awaiting further action. Hybrid systems, team assignment systems, random assignment systems, and other systems also exist.

**Recommendation 32:**

The Court should carefully review the Rules of Procedure in Traffic Cases and the Rules of Procedure in Civil Traffic Cases and develop procedures and forms necessary for clerks to take pleas in traffic cases to lessen the demand for hearing officers at the Court. In instances where defendants plead not guilty or not responsible, the clerk should set the case for a traffic hearing before a hearing officer or judge.

**Recommendation 33:**

If clerks are allowed to take pleas in traffic cases as recommended above, the traffic case arraignment schedule could remain as before. Fixed days and times can be established for traffic hearings, thus enabling the Court to better manage the calendar and flow of defendants into the Court.

**Recommendation 34:**

The Court should examine their procedures to assure no inducements are offered to influence pleas and assure that civil sanctions imposed on pleas of responsible are those sanctions listed in the deposit schedule.

**Recommendation 35:**

The Court should use the authorized fee waiver forms and follow the procedures as defined in Supreme Court Administrative Order #93-3, dated January 15, 1993. The Court should establish guidelines to ensure that judges follow correct procedures for assignment of counsel for indigent defense purposes.

**Recommendation 36:**

The Court should establish a clear continuance policy. Continuances should not be granted except upon verified and written motion and a showing of good cause. The Court should establish a standard minute order form to be used to facilitate caseflow management. All cases should be rescheduled to a date certain. Refer to Arthur Andersen & Co. Report, Public Defender File Review (Appendix C), and Tempe City Organizational Team Report (Appendix D, ISSUE 5.1).

**Recommendation 37:**

The Presiding Judge should work with the Court Administrator, City Prosecutor's Office and the police department to evaluate DUI dispositions, particularly dismissals. Though judges have independent judicial discretion to rule on cases, plea agreements should be reviewed carefully. Patterns of improperly issued complaints should be discussed with the police department.

**Recommendation 38:**

The Court should comply with A.R.S. § 28-1061A; A.R.S. § 28-1061B; and Rule VI(b), Rules of Procedure in Traffic Cases, by recording and reporting dispositions of traffic cases to MVD within ten days of entry of judgment or disposition.

The Court should become current in issuing Orders To Show Cause and warrants. Cases should be monitored and orders issued within ten days of default. All cases should be monitored through satisfaction of judgment.

**Recommendation 39:**

To ensure the confidentiality of juror records, jury information should be kept confidential. The Court should keep all jurors' home and business telephone numbers and addresses confidential unless good cause is shown to the Court which would require such disclosure. Jury lists and biographies should be shredded prior to disposal.

**ACCOUNTING AND CASH MANAGEMENT**

**Recommendation 40:**

The Court should comply with Administrative Order 93-52. The Court should establish written policies and procedures to ensure compliance. The Court Administrator should ensure the Court is in compliance with the Minimum Accounting Standards by July 1, 1994, task #41-46, of the Organizational Review Task Chart (Appendix J) and the Tempe City Organizational Review Report (Appendix D).

**Note:** Under the direction of the Interim Presiding Judge and the Interim Court Administrator, the Court has completed many of the accounting and cash handling recommendations identified by AOC staff during the review.

**Recommendation 41:**

The number of staff members who are permitted to make payment changes should be limited. The Court should establish a policy requiring Court supervisor approval for

changing or backdating payment records. See Organizational Review Task Chart (Appendix J) and the Tempe City Court Organizational Review Team Report (Appendix D).

**Note:** The Court has completed an approval process for back-dated payments.

**Recommendation 42:**

The Court should establish procedures to monitor monies owed to the Court. The automation system should automatically track the status of accounts receivable for each party. If possible, delinquent notices, Orders to Show Cause and warrants should be automatically issued. The Court should establish accounts receivable tracking as a high priority and work with the City Management Information Systems Department (MISD) to accomplish this by January 1, 1995.

**Note:** The Court has initiated a manual system for tracking outstanding fines.

**Recommendation 43:**

Checks should be endorsed immediately upon receipt. The Court should limit the number of people who open the mail and who have access to the cash drawer. In accordance with the Minimum Accounting Standards, persons who open the mail and receipt the money should not deposit the money. See Organizational Review Task Chart, task #44 (Appendix J).

**Note:** The Court is implementing a policy to restrictively endorse checks when received.

**Recommendation 44:**

The Court should attempt to reconstruct pending bond information and conduct scheduled bond forfeiture hearings as necessary. AOC staff concur with the Arthur Andersen recommendation that discrepancies between Court bond records and City records be reconciled. Refer to Arthur Andersen & Co. Report, Bonds Payable Reconciliation (Appendix C).

**Recommendation 45:**

The AOC concurs with the Arthur Andersen & Co. Report recommendation regarding bond reconciliation. The Court should go through each file where bonds were posted and verify the detail on the Outstanding Bond report. The Bond Liability account should be

reconciled monthly, along with cash received and cash disbursed. Refer to Arthur Andersen & Co. Report, Bonds Payable Reconciliation (Appendix C).

**Recommendation 46:**

Court staff should be commended for identifying and correcting the City Treasurer error. This function should remain with the Court and the Court should continue to prepare the monthly State Remittance Reports for the City Treasurer. Refer to Arthur Andersen & Co. Report, Allocation of Funds (Appendix C).

**Recommendation 47:**

If a private vendor is housed in the Court facility the Court should establish procedures to ensure a proper audit trail, to separately secure Court funds and vendor funds, and to prevent unauthorized access to or commingling with Court funds. Refer to Arthur Andersen & Co. Report, Defensive Driving--Cash Management (Appendix C).

Note: No private vendors are now housed in the Court Facility.

**Recommendation 48:**

The Court should require private vendors to obtain their own VISA processing equipment and vendor number to ensure an accurate audit trail. Refer to Arthur Andersen & Co. Report, Defensive Driving--Cash Management (Appendix C).

Note: This practice has now been implemented.

**Recommendation 49:**

The Court should ensure that it follows the surcharge calculation procedures outlined in the Arizona Supreme Court's "Consolidated Surcharge Booklet," by periodically recalculating the surcharge amounts and reviewing the supporting case documentation. Refer to Arthur Andersen & Co. Report, Allocation of Funds (Appendix C).

**Recommendation 50:**

The Court should provide written policies and procedures on handling financial transactions. Court staff should be encouraged to provide feedback and suggestions for continuous improvement. The Court should be receptive to any concerns staff bring to management regarding the Court's financial operations.

## **AUTOMATION**

### **Recommendation 51:**

**The Court and Tempe's MISD should take steps to secure the Court's automation system including changing passwords quarterly.**

**Note: AOC staff worked with the City of Tempe MISD to implement immediate changes to improve audit trails and improve system level security. By February 25, 1994, the following tasks were completed.**

- ▶ **The security program in the application was modified so individual users are responsible for updating their own passwords on a regular basis.**
- ▶ **The Court implemented a process which creates an audit trail when adding, changing or deleting users and/or passwords from the system. Although the Court supervisor can still set up application users, the Court Administrator or Presiding Judge will be required to authorize such changes. Changes will be documented and a log will be kept for audit purposes. The Outstanding Judicial System Tasks memorandum includes a description of tasks to be completed and the status of the tasks as of March 8, 1994 (Appendix K).**

### **Recommendation 52:**

**The Court should develop a list of staff concerns regarding the software system. Court staff should be encouraged to provide feedback and suggestions for improvement. A written report should be developed from the Presiding Judge and Court Administrator defining Court needs and requests. The Court should prioritize their requests and work with the Tempe MISD to develop a timeline for completing tasks. Refer to the Tempe City Organizational Review Team Report (Appendix D) and the Organizational Review Task Chart, task #7, 8, 9 (Appendix J).**

### **Recommendation 53:**

**The Court's automation system should not close unadjudicated cases. The Court should work with City MISD to correct problems associated with case processing. Cases that are closed prematurely result in inaccurate statistical reports. A physical inventory should be conducted to accurately identify case activity. Statistical corrections should be reported to the Supreme Court. The Court should accomplish a complete case inventory by January 1, 1995.**

**Recommendation 54:**

The Court should work with the City MISD to correct problems associated with case processing. A physical inventory should be done to compare case files with the automation system in order to make the necessary corrections and to identify accurately case activity. Refer to Statistics section in this report, Finding 24.

**FACILITY**

**Recommendation 55:**

The Court should work with the City of Tempe to ensure the Court complies with the Americans with Disabilities Act. Action should be taken to correct any problems identified.

The Court should consider acquiring TDD service to answer inquiries from the hearing impaired.

Future space needs should be considered in accordance with the City's master facilities plan. (See Tempe City Organizational Review Team Report, Appendix D, pages 1-10, 1-11, and Briefing to the Mayor and Council, Appendix B, page 4.) (See also Finding 29.)

**SECURITY**

**Recommendation 56:**

The Court should follow the recommendations identified in the report submitted by the Tempe Police Department. Refer to Organizational Review Task Chart (Appendix J).

**Note:** The Court has completed many of the security recommendations identified by the City Organizational Review Team.